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April 17, 2014

Via FedEx

Sharon Kivowitz
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007
kivowitz.sharon@epa.gov

**Re: 67 Sylvester Street Holdings LLC's Response to EPA's Notice of
Potential Liability and Request for Information for the New
Cassel/Hicksville Ground Water Contamination Superfund Site**

Dear Ms. Kivowitz and Ms. LaPoma:

This letter serves as the response of 67 Sylvester Street Holdings LLC ("67 SSH") to the United States Environmental Protection Agency ("EPA")'s Notice of Potential Liability and Request for Information dated July 31, 2013 ("Request for Information"), regarding the New Cassel/Hicksville Ground Water Contamination Superfund Site in the Towns of Hempstead, North Hempstead, and Oyster Bay in Nassau County, New York (the "Site"). On April 9, 2014, Sharon Kivowitz extended the time for 67 SSH to respond to the Request for Information until April 18, 2014.

The following response is based upon the present knowledge, information, and belief of 67 SSH as derived from the knowledge of Tommaso Marasco, the sole owner and president of 67 SSH, and from a diligent search of 67 SSH's files for records that would likely contain the information that EPA seeks in the Request for Information. The responses herein are made to the best of 67 SSH's knowledge, information, and belief.

In replying to the Request for Information, 67 SSH does not admit any liability or responsibility with respect to the Site, the subject matter of the Request for Information, or any other matter pertaining thereto. 67 SSH does not waive any rights, remedies, or defenses it has, or may have, regarding the Site. 67 SSH expressly denies any such liability or responsibility. Further, 67 SSH reserves the right to modify, supplement, or amend its response to the Request for Information should additional or different information be located or otherwise come to the attention of 67 SSH concerning the subject matter of the Request for Information.

Statement of Non-Liability

67 SSH reserves any and all defenses to CERCLA liability as may exist in law or equity. On the basis of its investigation, 67 SSH asserts that it is entitled to the innocent landowner defense, the bona fide prospective purchaser defense, or a de minimis settlement agreement for any action brought pursuant to CERCLA. *See* 42 U.S.C. §§ 6901(35), (40), 9607(b)(3), (r)(1); 40 C.F.R. Part 312. 67 SSH is entitled to the innocent landowner defense and the bona fide prospective purchaser defense because, in brief: (1) 67 SSH acquired both properties that it owns within the Site after January 11, 2002, and after any historic storage, disposal, or release of hazardous substances may have occurred on them; (2) 67 SSH conducted all appropriate inquiries before buying its properties; (3) 67 SSH reasonably believed that any past soil contamination at the property was removed through state-sponsored remedial actions before 67 SSH acquired the property; (4) 67 SSH has never caused or contributed to any contamination of any property within the Site and has no affiliation with any party that did cause such contamination; and (5) to date, 67 SSH has provided cooperation, assistance, and access in relation to remediation efforts at the Site and is complying with this Request for Information.

67 SSH's investigation shows that, to the extent that its property within the Site was ever subject to a release of hazardous substances, such contamination was remediated by the New York State Department of Environmental Conservation ("DEC") prior to 67 SSH's ownership and operation of its property. Further, the conditions at its property since the time of 67 SSH's acquisition of its property have neither contributed to nor exacerbated the conditions at the Site resulting in response costs that have been incurred or may be incurred in the future at the Site. Between 1996 and March 2002, the DEC conducted remedial activities to address the apparent presence of chlorinated solvents in soil and groundwater at 62 Kinkel Street, a parcel which 67 SSH acquired on October 23, 2003. DEC's response included the excavation and off-site disposal of soil as well as on-site groundwater monitoring.

67 SSH reviewed this site history before its purchase of the property, and it has complied with all of New York State's subsequent monitoring activities at the site since then. In January and February 2008, 67 SSH cooperated with DEC in the investigation of possible soil vapor intrusion at 62 Kinkel. DEC did not take further remedial action following that investigation. In 2010, 67 SSH cooperated with the New York Department of Health ("DOH") in further investigations of potential soil vapor contamination. DOH determined that tetrachloroethene ("PCE") and trichloroethene ("TCE") concentrations in indoor air at the site were below thresholds for those substances that are set by DOH, and recommended that no further remedial actions be taken at 62 Kinkel.

In light of all of the foregoing considerations, 67 SSH asserts that, even if it could be liable under CERCLA by virtue of its status as the current owner of its property, it falls squarely within the 1989 "EPA De Minimis Settlement Guidance", which recognizes the importance of "de minimis" settlements with "status" PRPs in circumstances precisely like those here. 67 SSH asserts that even if it cannot prove the

absence of liability or establish each and every element of any absolute CERCLA defense, it is accordingly entitled to a de minimis settlement.

General Objections

67 SSH objects to the Request for Information to the extent that it requires 67 SSH to consult with any persons other than its present employees for the purpose of responding to the request, on the ground that it is unduly burdensome. 67 SSH objects to any requirement to produce documents or information from time periods when 67 SSH did not own or operate any properties within the Site. 67 SSH also objects to any requirement to produce documents or information regarding portions of the Site other than the properties it owns.

67 SSH further objects to those requests which seek information regarding persons, places, or entities that are unrelated to the Site on the grounds that such requests are not relevant to the subject matter of the request and are not reasonably calculated to lead to the discovery of admissible evidence.

Subject to the foregoing, 67 SSH responds as follows:

Responses to Requests

Request No. 1(a): State the correct legal name and mailing address of your Company.

Response:

67 Sylvester Street Holdings LLC
67 Sylvester Street
Westbury, New York 11590

Request No. 1(b): State the name(s) and address(es) of the President, Chief Executive Officer and the Chairman of the Board (or other presiding officer) of the Company.

Response:

Tommaso Marasco
President, Chief Executive Officer, and Chairman of the Board
67 Sylvester Street Holdings LLC
67 Sylvester Street
Westbury, New York 11590

Request No. 1(c): Identify the state and date of incorporation of the Company and the Company's agents for service of process in the state of incorporation, and in New York State.

Response:

67 SSH was formed on August 26, 2003 as a domestic limited liability company under the laws of the State of New York. Its agent for service of process in New York is Tommaso Marasco.

Request No. 1(d): If your Company is a subsidiary or affiliate of another corporation or entity, identify each of those other corporations or entities and for each, the President Chief Executive Officer and Chairman of the Board. Identify the state of incorporation and agents for service of process in the state of incorporation and in New York State for each corporation identified in your response to this question.

Response:

67 SSH is not a parent, subsidiary, or affiliate of any other business entity.

Request No. 2: Identify the address, Section, Block and Lot numbers, and the size of each property (hereinafter, "Property" or "Properties") that your Company either presently owns and/or formerly owned within the Site from the date your Company, or any related company had an ownership interest. (See Definitions section for terms.)

Response:

67 SSH is the current owner and operator of 62 Kinkel Street, Section 11, Block 76, Lots 13 to 15 ("62 Kinkel"), which is .1722 acres in size. 67 SSH acquired a fee ownership interest in 62 Kinkel on or about October 23, 2003, and had no interest in the parcel before that time.

67 SSH is also the current owner and operator of 67 Sylvester Street, Section 11, Block 76, Lots 69 to 72 ("67 Sylvester"), which is .2296 acres in size. 67 SSH acquired a fee ownership interest in 67 Sylvester on or about October 23, 2003, and had no interest in the parcel before that time.

The properties referred to as 62 Kinkel and 67 Sylvester are contiguous and are owned and managed by 67 SSH as a single unit. This and all subsequent responses therefore will address those properties collectively.

From immediately or shortly after its incorporation on August 26, 2003, until December 14, 2013, 67 SSH received mail at 792 Carman Avenue, Section 45, Block 39, Lot 36 ("792 Carman"), a property then owned by T. Marasco & Sons Realty L.L.C, a separate realty holding company also owned and managed by Tommaso Marasco. However, 67 SSH has never held an ownership or leasehold interest in 792 Carman.

67 SSH is not the owner or former owner of any other property within the Site.

Request No. 3: For each Property identified in response to question 2. in which your Company has and/or had an ownership interest currently or in the past, please identify:

- a. The date your Company acquired an ownership interest. An ownership interest includes, but is not limited to, fee owner, lessor or lessee, licensee and/or operator;**
- b. The name and address of all other current and/or previous owners;**
- c. All individuals or entities that have leased, subleased or otherwise operated at each Property at any time currently or in the past, and identify the dates (month and year) that each such individual or entity began and ended its leasehold interest or its operations;**
- d. Any portion of any Property which was transferred or sold, and the block and lot number, the date of the transfer or sale, the sale price and the entity that acquired the Property;**
- e. The relationship, if any, between your Company and each of the individuals and/or other entities identified as having leased or operated at each Property;**
- f. Your Company's involvement in all operations conducted by each lessee and/or other individual or entity identified in response to question 3c., above; and**
- g. For each Property, provide all documents relevant to your responses to questions 3a.- 3f., above, and provide copies, including, but not limited to, copies of surveys, title search documents, deeds, rent rolls, leases and correspondence.**

Response:

62 Kinkel and 67 Sylvester:

- a. 67 SSH acquired fee ownership interests in 62 Kinkel and 67 Sylvester on October 23, 2003. 67 SHH had no ownership interest in the property before that time.
- b. Before 67 SSH's acquisition, the property was owned by Dermkraft, P.C., a successor to Dermkraft, Inc. In 2000, a mortgagee of the property, GCC Land Development Corp., initiated foreclosure proceedings, resulting in a judgment of foreclosure and sale dated September 2, 2002.

On August 12, 2003, GCC Land Development Corp., by its principal Eugene Cook, bought the property at the foreclosure sale for a sum of \$400,000.

On October 2003, 67 SSH purchased the property pursuant to a contract of sale and deed for a sum of \$650,000. From that time until the present, 67 SSH has been the sole owner of 62 Kinkel and 67 Sylvester. GCC Land

Development Corp. holds a mortgage on the property that had an initial principal of \$500,000.

- c. In or about November 2003, 67 SSH leased the property to Elegante Granite & Marble, Inc. ("Elegante"), which continues to lease the property today. The property has never been subleased during 67 SSH's ownership.

Based on a 2002 report by DEC titled "Inactive Hazardous Waste Disposal Report," 67 SSH believes that LAKA Tools and Stamping and LAKA Industries, Inc. ("LAKA Industries"), either owned or leased 62 Kinkel from an unknown owner between approximately 1971 and 1984. 67 SSH lacks information as to whether LAKA Industries also leased 67 Sylvester during that period.

- d. The only sales of the property of which 67 SSH has knowledge are the August 12, 2003 foreclosure sale, by which GCC Land Development Corp. acquired the property, and 67 SSH's October 23, 2003 purchase of the property from GCC Land Development Corp.
- e. 67 SSH and Elegante are separate business entities. They are both owned and managed by members of the Marasco family. 67 SSH is owned and managed by Tommaso Marasco, whereas Elegante is owned and operated by Francesco Marasco.

Neither 67 SSH nor any other business entity owned by any member of the Marasco family is a corporate successor or affiliate of LAKA Industries, Dermkraft, Inc., or any other known prior owner or operator of the property.

- f. 67 SSH has no involvement in the operations of Elegante at the properties. Elegante is managed and operated by Francesco Marasco.

67 SSH has no relationship to any entity that owned or leased 62 Kinkel prior to October 23, 2003, nor any involvement in their operations.

- g. Attached as **Exhibit A** is a copy of the October 23, 2003 deed by which 67 SSH acquired the property.

Attached as **Exhibit B** is a copy of the October 23, 2003 contract of sale by which 67 SSH purchased the property.

Attached as **Exhibit C** is a copy of the October 23, 2003 purchase money note and mortgage granting GCC Land Development Corp. a mortgage on the property.

Attached as **Exhibit D** is a copy of the court-appointed referee's report for the foreclosure sale of the property, which include (1) the September 3, 2002

Judgment of Foreclosure and Sale relating to the property, (2) a record of the sale of the property to GCC Land Development Corp. for \$400,000, (3) an assignment of GCC Land Development Corp.'s bid rights to the property to 67 SSH, and (4) records of the payment of real estate taxes.

Attached as **Exhibit E** are documents produced as part of the title and site history search for 67 SSH's October 2003 purchase of the property.

Attached as **Exhibit F** is a copy of DEC's 2002 Inactive Hazardous Waste Disposal Report relating to 62 Kinkel.

Request No. 4: Provide copies of all maps, building plans, floor plans and/or drawings for each Property identified in response to question 2., above. Your response to this question should include, but not be limited to, providing plumbing and drainage system plans for all structures on each Property.

For both current (if still in operation) and past operations during the period of time that the Company was at a Property, please identify and provide a description of the following:

- a. all surface structures and features (e.g., buildings, above-ground storage tanks, paved, unpaved areas and parking lots, and dates when paved areas were paved);
- b. all past and present plumbing systems, above and below-ground discharge piping, sumps, storm water drainage systems, sanitary sewer systems, septic tanks, dry wells, subsurface disposal fields, and underground storage tanks; and
- c. all currently existing and previously existing chemical and industrial hazardous substance storage, transfer, spill and disposal areas.

Response:

62 Kinkel and 67 Sylvester:

- a. 62 Kinkel is the location of an approximately 1,000-square-foot, single-story structure. 67 Sylvester is improved by an approximately 3,000-square-foot, single story structure. These buildings house stone-cutting equipment used by Elegante for its cut-stone manufacturing business.
- b. Inside the structures on the property, there is a system of drains that collect water that is used to wash dust from stones and stone-cutting equipment. The drain feeds dust-laden water into a settling tank that removes the dust so that the water can be reused. The dust is collected weekly and disposed of at an off-site location.

Outside, the property has two dry wells. No waste, byproduct, or liquid runoff from Elegante's operations is released to either dry well.

On information and belief, the property is served by a sanitary sewer that collects storm water and sanitary sewage from the parcel. 67 SSH has taken measures to obtain more details regarding the plumbing and drainage system on the property and will supplement this response if and when those materials become available.

There is no underground storage tank, septic tank, or subsurface sanitary waste disposal field on the property.

- c. On April 1, 2002, DEC completed an Inactive Hazardous Waste Disposal Report relating to 62 Kinkel Street (**Exhibit F**). That report identifies LAKA Industries as former operators at the site and states that LAKA Industries used TCE as a degreasing agent between the years of 1971 and 1984 and that TCE-contaminated soil was found around a drywell or cesspool on the property.

Since it acquired the property (i.e., 62 Kinkel and 67 Sylvester), 67 SSH has never conducted or caused any hazardous substance storage, transfer, spill, or disposal at the property. To 67 SSH's knowledge, no previous owner or operator has ever conducted such activities on the property.

Request No. 5: For each Property identified in question 2., above, at which your Company conducted operations, describe in detail the manufacturing processes and/or other operations that your Company conducted at the Property, and identify the years during which your Company conducted operations there. If those operations were not constant throughout your Company's operations, describe the nature of all changes in operations, and state the year of each change. If detailed information about your Company's operations is not available, provide, at a minimum, a general description of the nature of your Company's business at the Property, the years of operation, the type of work your Company conducted, and the number of employees for all the operations.

Response:

62 Kinkel and 67 Sylvester:

67 SSH is a realty holding company and does not conduct any operations at the property except to rent it to Elegante. The operations of Elegante are described in the response to Request no. 3(f) above.

Request No. 6(a): With respect to industrial wastes at a Property:

- a. **List all industrial wastes that were used, stored, generated, handled or received by your Company at the Property. Your response to this question should include, but not be limited to, use, storage, generation**

- and/or handling of trichloroethylene (“TCE”), tetrachloroethylene (“PCE”), 1, 1, 1-trichloroethane (“1, 1, 1-TCA”) and other chlorinated or non-chlorinated solvents. Be as specific as possible in identifying each chemical, and provide, among other things, the chemical name, brand name, and chemical content;
- b. State when each industrial waste identified in your response to question 6a., above, was used, stored, generated, handled or received, and state the volume of each industrial waste used, stored, generated and/or handled on an annual basis;
 - c. Describe the activity or activities in which each industrial waste identified in your response to question 6a. above, was used, stored, handled or received.

Response:

62 Kinkel and 67 Sylvester:

- a. 67 SSH has never used, stored, generated, handled, or received industrial wastes at any property. Nor has the company ever used TCE, PCE, 1, 1, 1-TCA, any other chlorinated solvents, or other industrial wastes.

As explained, the only solid waste generated by the manufacturing processes of 67 SSH’s lessee, Elegante, is non-hazardous stone dust that is collected and disposed of offsite.

- b. As explained, 67 SSH’s operations do not involve, and have never involved, the use of any industrial wastes or chlorinated solvents at any property.
- c. As explained, 67 SSH’s operations do not involve, and have never involved, the use of any industrial wastes or chlorinated solvents.

Request No. 7: Describe in detail how and where the industrial wastes identified in response to question 6., above, were disposed. For each disposal location and method, state the nature and quantity of the material disposed of on an annual basis. For those time periods when a precise quantity is not available, provide an estimate.

Response:

62 Kinkel and 67 Sylvester:

As explained, 67 SSH’s operations do not involve, and have never involved, the use of any industrial wastes or chlorinated solvents.

Request No. 8: Describe in detail any knowledge your Company has about intentional or unintentional disposal of industrial wastes at each Property identified

in response to question 2., above, including, but not limited to, TCE, PCE and/or other chlorinated or non-chlorinated solvents or wastes containing such solvents, at any time currently or in the past. Your response should include instances in which industrial wastes were spilled or otherwise disposed onto or into the floors or the ground from septic systems, pipes, drains, drums, tanks, or by any other means. Provide copies of all documents relevant to your response.

Response:

62 Kinkel and 67 Sylvester:

No releases of hazardous substances or industrial wastes have occurred at the property during 67 SSH's ownership. The property's lessee, Elegante, does not use or release any hazardous substances as part of its operations. Elegante uses stone-cutting equipment to craft granite, marble, and other stones for use primarily in remodeling the interiors of personal residences. The only byproduct of this process is stone dust, which Elegante collects using a closed-loop water wash and collection system. The dust is collected in a settling tank and disposed of off-site.

The only historic release of industrial waste of which 67 SSH has any knowledge or information is the reported disposal of TCE in a drywell or cesspool by LAKA Industries between 1971 and 1984. That disposal is described in DEC's April 1, 2002 Inactive Hazardous Waste Disposal Report relating to 62 Kinkel Street (**Exhibit F**). The DEC report identifies LAKA Industries as a former operator at 62 Kinkel Street, states that LAKA Industries used TCE as a degreaser, and reports that TCE-contaminated soil and groundwater was discovered on the property.

Following the preparation of a focused remedial investigation and feasibility study, DEC issued a Record of Decision ("ROD") for the 62 Kinkel site. The 2000 ROD states that the following contaminants were identified at the property: arsenic, cadmium, nickel, mercury, iron, TCE, and zylene. In February and March 2002, the impacted soil was removed and disposed of off-site to restore the property. On-site groundwater monitoring was also included as part of the remediation of 62 Kinkel.

This past contamination and remediation was referenced in the transactions leading up to 67 SSH's acquisition of the property. In addition to the DEC documents (the 2000 ROD and 2002 removal report), which were available for review, a lawyer from the firm Nixon Peabody LLP issued an August 7, 2003 letter advising GCC Land Development Corp. in relation the potential for lender liability issues arising from the property.

In December 2007 and 2008, DEC sent letters to 67 SSH indicating its intent to enter 62 Kinkel to conduct a soil vapor intrusion investigation. 67 SSH cooperated with DEC's request.

On February 16, 2010, a consultant representing the New York State Department of Health (“DOH”) conducted soil vapor testing at the property. The consultant collected 3 vapor samples from beneath the structure at the property, 2 air samples within the structure, and 1 air sample outside the property. Based on its review of the results of that investigation, DOH issued a July 19, 2010 letter in which it stated its conclusion that both PCE and TCE levels were significantly lower than DOH thresholds for action. DOH further explained that “[t]he concentrations of the VOCs detected in the indoor air of your building are generally consistent with those typically found in homes and are consistent with the results of the outdoor air sample collected on the same day.” Accordingly, DOH recommended no immediate actions to address indoor air quality at the property.

67 SSH has no knowledge of any other intentional or unintentional disposal of industrial wastes at the property at any time, current or in the past. Based on the sources and information relating to potential past releases that were available at the time of its purchase of the property in 2003, 67 SSH reasonably determined that all appropriate inquiries had been made and that the only previously existing disposal area at the property has been remediated and was no longer a source of contamination.

Attached as **Exhibit G** is New York State DEC’s February 2000 ROD relating to solvents contamination from LAKA Industries’ operations at 62 Kinkel between 1971 and 1984.

Attached as **Exhibit H** is an August 7, 2003 letter from an attorney at Nixon Peabody LLP to Eugene Cook of GCC Land Development Corp.

Attached as **Exhibit I** are two letters from DEC to 67 SSH, dated December 28, 2007, and February 13, 2008, stating DEC’s intent to enter the property to monitor soil vapor.

Attached as **Exhibit J** is a July 19, 2010 letter from the New York State Department of Health (“DOH”) reporting the results of its soil vapor investigation at the property.

Attached as **Exhibit K** is a site record report for 62 Kinkel, available from DEC’s website. 67 SSH has requested, under New York’s Freedom of Information Law, all other records related to DEC response activities at 62 Kinkel. 67 SSH will supplement this response with any further information that it receives as a result of that request.

Request No. 9: Identify all leaks, spills, or releases of any kind of any industrial wastes (including, but not limited to, TCE and PCE or other chlorinated or non-chlorinated solvents or wastes containing such solvents) into the environment that have occurred, or may have occurred, at or from the Property, including any leaks or releases from drums and other containers. Provide copies of all documents relevant to your response.

Response:

62 Kinkel and 67 Sylvester:

As explained in response to Request No. 8, the only release of industrial wastes of which 67 SSH has any knowledge or information is documented by DEC's disposal report (**Exhibit F**), Record of Decision (**Exhibit G**), and site history report (**Exhibit K**) and consisted of the release of chlorinated solvents by LAKA Industries when that company operated at 62 Kinkel between 1971 and 1984. As also explained, the soil contamination resulting from that release was addressed by removal and remediation activities that were completed in March 2002, before 67 SSH acquired 62 Kinkel and 67 Sylvester.

Request No. 10: Explain whether any repairs or construction were implemented to address any leaks, spills, releases or threats of releases of any kind, the nature of the work and the dates of any such work. Provide copies of all analyses, characterizations, environmental assessments or studies or any report or other description of any investigations, removal actions, remedial activities, or any other work conducted by your Company or by any other party on your Company's behalf relating to industrial wastes released at or from the Property and/or the Site. If any copies of the records requested in this question are available electronically, kindly submit your answer to this question on a disk.

Response:

62 Kinkel and 67 Sylvester:

As explained, DEC's Inactive Hazardous Waste Disposal Report (**Exhibit F**) documents that source removal and monitoring activities occurred prior to March 2002 to address TCE soil and groundwater contamination at 62 Kinkel.

During 67 SSH's ownership of 62 Kinkel and 67 Sylvester, there has never been any known reason to make repairs or undertake construction to address leaks, spills, releases, or threats of release of hazardous substances. As explained, the only tenant and operator to lease the property during 67 SSH's ownership, Elegante, has never generated any hazardous substances in its manufacturing processes. Furthermore, the contaminated soil caused by the apparent historic disposal of TCE by LAKA Industries at 62 Kinkel was removed before 67 SSH acquired the property, and so 67 SSH had no reason to undertake such measures itself. Finally, on at least three occasions state environmental and health officials have taken steps to investigate the properties and have determined not to conduct further remedial activities.

Request No. 11: Provide copies of all insurance policies held and indemnification agreements entered into by the Company which may potentially indemnify the Company against any liability which it may be found to have under CERCLA for releases and threatened releases of hazardous substances at and from the Property. In response to this request, please provide not only those insurance policies and

agreements which currently are in effect, but also those that were in effect during any portion of the time the Company conducted operations at, or held a property interest at the NCIA. Your response should also identify the specific Property related to each policy and/or agreement.

Response:

62 Kinkel and 67 Sylvester:

67 SSH's current property and liability insurance policy contains an absolute pollution exclusion and therefore does not cover any potential liability 67 SSH might have under CERCLA or other applicable law for response costs or natural resource damages at the Site. Copies of 67 SSH's current property and liability insurance policies (covering a policy period of March 17, 2014, to March 17, 2015) are provided as **Exhibit L**.

67 SSH has been unable to locate copies of its earlier policies, and will supplement this response if and when those are available. However, in an email dated April 4, 2014, a representative from 67 SSH's insurance broker, Libardi Service Agency, indicated that 67 SSH has carried a policy from its current carrier since March 2005, and the current policy transaction is labeled as a "Renewal," suggesting that the same policy has been in effect since that time.

Request No. 12: State the names, telephone numbers and present or last known addresses of all individuals whom you have reason to believe may have knowledge, information or documents regarding the use, storage, generation, disposal of or handling of industrial wastes at the Site, the transportation of such materials to the Site, or the identity of any companies whose material was treated or disposed of at the Site.

Response:

Tommaso Marasco
President & CEO, 67 Sylvester Street Holdings LLC
67 Sylvester Street
Westbury, NY 11590

Request No. 13: If you have information or documents which may help EPA identify other companies that conducted operations, owned property, or were responsible for the handling, use, storage, treatment, or disposal of industrial wastes that potentially contributed to chlorinated solvent contamination at the Site, please provide that information and those documents, and identify the source(s) of your information.

Response:

67 SSH has no additional information or documents in its possession or available to it that may be relevant to EPA's identification of other companies that may be responsible for releases of chlorinated solvents at the Site.

The only operator at the property about which 67 SSH has information is Elegante, which is, like 67 SSH, owned by members of the Marasco family. Elegante's operations do not involve and have never involved the use of chlorinated solvents.

Request No. 14: Please state the name, title and address of each individual who assisted or was consulted in the preparation of your response to this Request for Information. In addition, state whether each such person has personal knowledge of the answers provided.

Response:

Tommaso Marasco
President & CEO, 67 Sylvester Street Holdings LLC
67 Sylvester Street
Westbury, NY 11590

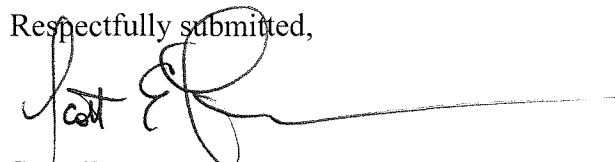
Scott Furman, Esq.
Shareholder, Sive, Paget & Riesel, P.C.
460 Park Avenue, 10th Floor
New York, NY 10022

Daniel P. Mach, Esq.
Associate, Sive, Paget & Riesel, P.C.
460 Park Avenue, 10th Floor
New York, NY 10022

This response is submitted on behalf of 67 SSH, based on information supplied by 67 SSH. Tommaso Marasco has personal knowledge of the answers provided in this response to EPA's Request for Information and has reviewed the responses and confirmed the accuracy of the responses.

If and when any additional information that is pertinent to the Request for Information becomes available, we will supply it in a supplemental response.

Respectfully submitted,



Scott Furman

Enclosures (CD-ROM)

cc: Jennifer LaPoma
Remedial Project Manager
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007-1866
lapoma.jennifer@epa.gov

Tommaso Marasco
67 Sylvester Street Holdings LLC
67 Sylvester Street
Westbury, New York 11590

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of NY

County of Nassau

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information regarding the New Cassel/Hicksville Site) and all documents submitted herewith, and that I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

TOMMASO MARASCO
NAME (print or type)

Member
TITLE (print or type)


SIGNATURE

Sworn to before me this

17 day of April, 2014

Frances Posillico
Notary Public

FRANCES POSILICO
NOTARY PUBLIC - State of New York
No. 01P06178281
Qualified in Nassau County
My Commission Expires Nov. 26, 2015

List of Exhibits

A – October 23, 2003 Deed

B – October 23, 2003 Contract of Sale

C – October 23, 2003 Purchase Money Note and Mortgage

D – Foreclosure Referee's Report

E – Title and Site History Search Documents

F – DEC Inactive Hazardous Waste Disposal Report

G – DEC's 2000 ROD for 62 Kinkel

H – 2003 Letter from Counsel Regarding Lender Liability

I – DEC's 2008 Soil Vapor Inspection Letters

J – DOH's 2010 Letter Recommending No Action Regarding Soil Vapor Intrusion

K – DEC's Site Record for 62 Kinkel

L – 67 Sylvester Street Holding LLC's Commercial Liability Insurance Policy

Exhibit A

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

NASSAU COUNTY CLERK'S OFFICE
ENDORSEMENT COVER PAGE

Recorded Date: 01-14-2004
Recorded Time: 11:24:38 a

Liber Book: D 11721
Pages From: 660
To: 664

Record and Return To:
NEIL E BOTWINOFF ESQ
TANNENBAUM HELPERN SYRACUSE HIRSCHTRITT
900 THIRD AVENUE
NEW YORK, NY 10022

Control
Number: 1120
Ref #: RE 015317
Doc Type: D01 DEED

Location:	Section	Block	Lot	Unit
N. HEMPSTEAD (2822)	0011	00076-00	00013	
N. HEMPSTEAD (2822)	0011	00076-00	00014	
N. HEMPSTEAD (2822)	0011	00076-00	00015	
N. HEMPSTEAD (2822)	0011	00076-00	00069	
N. HEMPSTEAD (2822)	0011	00076-00	00070, 71, 72	

Consideration Amount: 400,000.00

	Taxes Total	1,600.00
	Recording Totals	105.00
DAC001	Total Payment	1,705.00

THIS PAGE IS NOW PART OF THE INSTRUMENT AND SHOULD NOT BE REMOVED
KAREN V. MURPHY
COUNTY CLERK



2004011401120



DOHS
3/
400000

SALVATORE LECCI, REFEREE

-to-

67 SYLVESTER STREET HOLDINGS, LLC

Title No. N 2304071

REFEREE'S DEED IN FORECLOSURE

The land affected by the within
instrument lies Nassau County

Section: 11

Block: 76 /

Lots: 13, 14, 15, 69, 70, 71, & 72

RECORD AND RETURN TO:

Neil E. Botwinoff, Esq.
Tannenbaum, Helpen, Syracuse, Hirschtritt, LLP
900 Third Avenue
New York, New York 10022
/

172304071
STB Associates

REFEREE'S DEED

THIS DEED, made on October 23, 2003, by and between SALVATORE LECCI, Referee duly appointed in the action hereinafter mentioned, as grantor ("Grantor") having an office at 330 Old Country Road, Suite 201, Mineola, New York 11501-4122,, and 67 SYLVESTER STREET HOLDINGS, LLC, having an office at 792 Carmen Avenue, Westbury, New York, as grantee ("Grantee")

WITNESSETH, that the Grantor, the Referee appointed in an action between GCC DEVELOPMENT CORP, Plaintiff, v. Dermkraft, P.C., Dermkraft, Inc., the State of New York, New York State Department of Environmental Conservation and John P. Cahill, Commissioner of the New York State Department of Environmental Conservation, and John Krafchuck, Defendants, said defendants having addresses as shown on **Schedule "B"** annexed hereto and made a part hereof, Index No. 00-13468 in the Supreme Court of the State of New York Nassau County, foreclosing a certain mortgage dated April 28, 1986 and recorded May 8, 1986 in Liber 11508 at Page 366 in the Office of the Nassau County Clerk, in pursuance of a Judgement of Foreclosure and Sale entered at IAS Part 16 of the Supreme Court of the State of New York, County of Nassau on September 5, 2002 and filed in the Nassau County Clerk's Office on September 5, 2002, and in consideration of the sum of \$400,000.00 paid by the GCC Land Development Corp., 59 New York Avenue, Westbury, New York 11590, the predecessor in interest and assignor of its bid to Grantee, being the highest sum bid at the public auction sale under said Judgement, does hereby grant and convey unto the Grantee:

ALL that certain plot, piece of parcel of land, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State on New York, bounded and described as set forth in **Schedule "A"** annexed hereto and made a part hereof:

The within described Real Property is not encumbered by a Credit-Line Mortgage.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, 67 SYLVESTER STREET HOLDINGS, LLC, and assigns forever.

IN WITNESS WHEREOF, grantor has hereunto set his hand and seal the date first above written.


SALVATORE LECCI,
REFEREE

STATE OF NEW YORK)

)ss.:

COUNTY OF NASSAU)

On the 23 day of October in the year 2003 before me, the undersigned, a Notary Public in and for said State, personally appeared, SALVATORE LECCI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person ipon behalf of which the individual acted, executed this instrument.



NOTARY PUBLIC

DIANE MELIA
Notary Public, State Of New York
No. 01ME4646632
Qualified In Queens County
Commission Expires Feb. 28, 20 06

SCHEDULE A

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State of New York, known and designated at Lots 13 to 15 inclusive and Lots 69 to 72 inclusive in Block 76 on a certain Map entitled, "2nd Map of the City of New Cassel, Queens County, Long Island, New York surveyed August 1891 by William Hauxhurst, Surveyor" and filed in the Office of the Clerk of the County of Nassau, under File #3, case #14, which said lots, according to said map are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Kinkel Street distant 200 feet southerly from the corner formed by the intersection of the easterly side of Kinkel Street and the southerly side of Main Street;

RUNNING THENCE easterly at right angles to the easterly side of Kinkel Street, 100 feet;

THENCE southerly parallel with the easterly side of Kinkel Street, 25 feet;

THENCE easterly again at right angles to the easterly side of Kinkel Street, 100 feet to the westerly side of Sylvester Street;

THENCE southerly along the westerly side of Sylvester Street, 100 feet;

THENCE westerly again at right angles to the easterly side of Kinkel Street, 100 feet;

THENCE northerly parallel with the easterly side of Kinkel Street, 50 feet;

THENCE westerly again at right angles to the easterly side of Kinkel Street, 100 feet to the said easterly side of Kinkel Street; and

THENCE northerly along the easterly side of Kinkel Street, 75 feet to the point or place of BEGINNING.

Said premises are known as 62 Kinkel Street, Westbury, New York 11590.

STATE OF NEW YORK
COUNTY OF NASSAU
COUNTY CLERK'S OFFICE }

SS: YH

I, MAUREEN O'CONNELL, County Clerk of the County of Nassau and
the Supreme and County Courts, Courts of Record thereof,
DO HEREBY CERTIFY, that I have compared the annexed with the
original

DEED: D11721

PAGES: 660-664

FILED AND RECORDED in my office 01/14/2004 and the same is a true
transcript thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed
the official seal of said County at Mineola, N.Y. this 26th day of MARCH,
2014.

Maureen O'Connell
County Clerk

Exhibit B

NOTE: This form is intended to cover matters common to most transactions. Provisions should be added, altered or deleted to suit the circumstances of a particular transaction.

Contract of Sale — Office, Commercial and Multi-Family Residential Premises

Table of Contents

Section 1.	Sale of premises and acceptable title	Section 13.	Objections to title, failure of seller or purchaser to perform and vendee's lien
Section 2.	Purchase price, acceptable funds, existing mortgages, purchase money mortgage and escrow of downpayment	Section 14.	Broker
Section 3.	The closing	Section 15.	Notices
Section 4.	Representations and warranties of seller	Section 16.	Limitations on survival of representations, warranties, covenants and other obligations
Section 5.	Acknowledgements of purchaser	Section 17.	Miscellaneous provisions
Section 6.	Seller's obligations as to leases		Signatures and receipt by escrowee
Section 7.	Responsibility for violation	Schedule A.	Description of premises (to be attached)
Section 8.	Destruction, damage or condemnation	Schedule B.	Permitted exceptions
Section 9.	Covenants of seller	Schedule C.	Purchase price
Section 10.	Seller's closing obligations	Schedule D.	Miscellaneous
Section 11.	Purchaser's closing obligations	Schedule E.	Survey (to be attached)
Section 12.	Apportionment		

CONTRACT dated as of October 23, 2003 between GCC LAND DEVELOPMENT CORP., 59 New York Avenue, Westbury, New York 11590 ("Seller")

and 67 SYLVESTER STREET HOLDINGS, LLC., 792 Carmen Avenue, Westbury, New York 11590 ("Purchaser").

Seller and Purchaser hereby covenant and agree as follows:

Section 1. Sale of Premises and Acceptable Title

§1.01. Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, at the price and upon the terms and conditions set forth in this contract: (a) the parcel of land more particularly described in Schedule A attached hereto ("Land"); (b) all buildings and improvements situated on the Land (collectively, "Building"); (c) all right, title and interest of Seller, if any, in and to the land lying in the bed of any street or highway in front of or adjoining the Land to the center line thereof and to any unpaid award for any taking by condemnation or any damage to the Land by reason of a change of grade of any street or highway; (d) the appurtenances and all the estate and rights of Seller in and to the Land and Building; and (e) all right, title and interest of Seller, if any, in and to the fixtures, equipment and other personal property attached or appurtenant to the Building (collectively, "Premises"). The Premises are located at or known as

§1.02. Seller shall convey and Purchaser shall accept fee simple title to the Premises in accordance with the terms of this contract, subject only to: (a) the matters set forth in Schedule B attached hereto (collectively, "Permitted Exceptions"); and (b) such other matters as (i) the title insurer specified in Schedule D attached hereto (or if none is so specified, then any member of the **American Land Title Association**) shall be willing, without special premium, to omit as exceptions to coverage ~~or to except with insurance against collection out of or enforcement against the~~ Premises and (ii) shall be accepted by any lender described in Section 274-a of the Real Property Law ("Institutional Lender") which was committed in writing to provide mortgage financing to Purchaser for the purchase of the Premises ("Purchaser's Institutional Lender"), except that if such acceptance by Purchaser's Institutional Lender is unreasonably withheld or delayed, such acceptance shall be deemed to have been given.

62 Kinkel Street, Westbury, New York
Section: 11, Block: 76, Lots:
13, 14, 15, 69, 70, 71 & 72

Section 2. Purchase Price, Acceptable Funds, Existing Mortgages, Purchase Money Mortgage and Escrow of Downpayment

§2.01. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the Premises as provided in Schedule C attached hereto is \$ 650,000.00

§2.02. All monies payable under this contract, unless otherwise specified in this contract, shall be paid by (a) certified checks of Purchaser or any person making a purchase money loan to Purchaser drawn on any bank, savings bank, trust company or savings and loan association having a banking office for the payment of such check in the State of New York or (b) official bank checks drawn by any such banking institution, payable in New York State to the order of Seller, except that uncertified checks of Purchaser payable to the order of Seller up to the amount of one-half of one percent of the Purchase Price shall be acceptable for sums payable to Seller at the Closing.

~~§2.03. (a) If Schedule C provides for the acceptance of title by Purchaser subject to one or more existing mortgages (collectively, "Existing Mortgage(s)"), the amounts specified in Schedule C with reference thereto may be approximate. If at the Closing the aggregate principal amount of the Existing Mortgage(s), as reduced by payments required thereunder prior to the Closing, is less than the aggregate amount of the Existing Mortgage(s) as specified in Schedule C, the difference shall be added to the monies payable at the Closing, unless otherwise expressly provided herein:~~

~~(b) If any of the documents constituting the Existing Mortgage(s) or the note(s) secured thereby prohibits or restricts the conveyance of the Premises or any part thereof without the prior consent of the holder or holders thereof (Mortgagee(s)) or confers upon the Mortgagee(s) the right to accelerate payment of the indebtedness or to change the terms of the Existing Mortgage(s) in the event that a conveyance is made without consent of the Mortgagee(s), Seller shall notify such Mortgagee(s) of the Proposed conveyance to Purchaser within 10 days after execution and delivery of this contract, requesting the consent of such Mortgagee(s) thereto. Seller and Purchaser shall furnish the Mortgagee(s) with such information as may reasonably be required in connection with such request and shall otherwise cooperate with such Mortgagee(s) and with each other in an effort expeditiously to procure such consent, but neither shall be obligated to make any payment to obtain such consent. If such Mortgagee(s) shall fail or refuse to grant such consent in writing on or before the date set forth in Schedule D or shall require as a condition of the granting of such consent (i) that additional consideration be paid to the Mortgagee(s) and neither Seller nor Purchaser is willing to pay such additional consideration or (ii) that the terms of the Existing Mortgage(s) be changed and Purchaser is unwilling to accept such change, then unless Seller and Purchaser mutually agree to extend such date or otherwise modify the terms of this contract, Purchaser may terminate this contract in the manner provided in §13.02. If Schedule C provides for a Purchase Money Mortgage (as defined in §2.04), Seller may also terminate this contract in the manner provided in §13.02 if any of the foregoing circumstances occur or if Seller is unwilling to accept any such change in the terms of the Existing Mortgage(s).~~

§2.04. (a) If Schedule C provides for payment of a portion of the Purchase Price by execution and delivery to Seller of a note secured by a purchase money mortgage ("Purchase Money Mortgage"), such note and Purchase Money Mortgage shall be drawn by the attorney for the Seller and Purchasers shall pay to the attorneys for the Seller attorneys fees for the preparation thereof in the amount of \$975.00.

(b) If Schedule C provides for the acceptance of title by Purchaser subject to Existing Mortgage(s) prior in lien to the Purchase Money Mortgage, the Purchase Money Mortgage shall

provide that it is subject and subordinate to the lien(s) of the Existing Mortgage(s) and shall be subject and subordinate to any extensions, modifications, renewals, consolidations, substitutions or replacements thereof (collectively, "Refinancing" or "Refinanced Mortgage"), provided that (i) the rate of interest payable under a Refinanced Mortgage shall not be greater than that specified in Schedule D as the Maximum Interest Rate or, if no Maximum Interest Rate is specified in Schedule D, shall not be greater than the rate of interest that was payable on the refinanced indebtedness immediately prior to such Refinancing; and (ii) if the principal amount of the Refinanced Mortgage plus the principal amount of other Existing Mortgage(s), if any, remaining after placement of a Refinanced Mortgage exceeds the amount of principal owing and unpaid on all mortgages on the Premises superior to the Purchase Money Mortgage immediately prior to the Refinancing, an amount equal to the excess shall be paid at the closing of the Refinancing to the holder of the Purchase Money Mortgage in reduction of principal payments due thereunder in inverse order of maturity. The Purchase Money Mortgage shall further provide that the holder thereof shall, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements reasonably required by the mortgagor to confirm such subordination.

(c) The Purchase Money Mortgage shall contain the provisions in form annexed hereto:

(i) "The mortgagor or any owner of the mortgaged premises shall have the right to prepay the entire unpaid indebtedness together with accrued interest, but without penalty, at any time on or after [insert the day following the last day of the fiscal year of the mortgagee in which the Closing occurs, or, if a Prepayment Date is specified in Schedule D, the specified Prepayment Date], on not less than 10 days' written notice to the holder hereof."

(ii) "Notwithstanding anything to the contrary contained herein, the obligation of the mortgagor for the payment of the indebtedness and for the performance of the terms, covenants and conditions contained herein and in the note secured hereby is limited solely to recourse against the property secured by this mortgage, and in no event shall the mortgagor or any principal of the mortgagor, disclosed or undisclosed, be personally liable for any breach of or default under the note or this mortgage or for any deficiency resulting from or through any proceedings to foreclose this mortgage, nor shall any deficiency judgment, money judgment or other personal judgment be sought or entered against the mortgagor or any principal of the mortgagor, disclosed or undisclosed, but the foregoing shall not adversely affect the lien of this mortgage or the mortgagee's right of foreclosure."

(iii) "In addition to performing its obligations under Section 274-a of the Real Property Law, the mortgagee, if other than one of the institutions listed in Section 274-a, agrees that, within 10 days after written request by the mortgagor, but not more than twice during any period of 12 consecutive months, it will execute, acknowledge and deliver without charge a certificate of reduction in recordable form (a) certifying as to (1) the then unpaid principal balance of the indebtedness secured hereby, (2) the maturity date thereof, (3) the rate of interest, (4) the last date to which interest has been paid and (5) the amount of any escrow deposits then held by the mortgagee, and (b) stating, to the knowledge of the mortgagee, whether there are any alleged defaults hereunder and, if so, specifying the nature thereof."

(iv) "All notices required or desired to be given under this mortgage shall be in writing and shall be delivered personally or shall be sent by prepaid registered or certified mail,

addressed to the mortgagor and mortgagee at the addresses specified in this mortgage or to such other parties or at such other addresses, not exceeding two, as may be designated in a notice given to the other party or parties in accordance with the provisions hereof.¹¹

~~(v) The additional provisions, if any, specified in a rider hereto.~~

§2.05. (a) If the sum paid under paragraph (a) of Schedule C or any other sums paid on account of the Purchase Price prior to the Closing (collectively, "Downpayment") are paid by check or checks drawn to the order of and delivered to Seller's attorney or another escrow agent ("Escrowee"), the Escrowee shall hold the proceeds thereof in escrow in a special bank account (or as otherwise agreed in writing by Seller, Purchaser and Escrowee) until the Closing or sooner termination of this contract and shall pay over or apply such proceeds in accordance with the terms of this section. Escrowee need not hold such proceeds in an interest-bearing account, but if any interest is earned thereon, such interest shall be paid to the same party entitled to the escrowed proceeds, and the party receiving such interest shall pay any income taxes thereon. The tax identification numbers of the parties are either set forth in Schedule D or shall be furnished to Escrowee upon request. At the Closing, such proceeds and the interest thereon, if any, shall be paid by Escrowee to Seller. If for any reason the Closing does not occur and either party makes a written demand upon Escrowee for payment of such amount, Escrowee shall give written notice to the other party of such demand. If Escrowee does not receive a written objection from the other party to the proposed payment within 10 business days after the giving of such notice, Escrowee is hereby authorized to make such payment. If Escrowee does receive such written objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by written instructions from the parties to this contract or a final judgment of a court. However, Escrowee shall have the right at any time to deposit the escrowed proceeds and interest thereon, if any, with the clerk of the Supreme Court of the county in which the Land is located. Escrowee shall give written notice of such deposit to Seller and Purchaser. Upon such deposit Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that Escrowee is acting solely as a stakeholder at their request and for their convenience, that Escrowee shall not be deemed to be the agent of either of the parties, and that Escrowee shall not be liable to either of the parties for any act or omission on its part unless taken or suffered in bad faith, in willful disregard of this contract or involving gross negligence. Seller and Purchaser shall jointly and severally indemnify and hold Escrowee harmless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith, in willful disregard of this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee has acknowledged agreement to these provisions by signing in the place indicated on the signature page of this contract.

Section 3. The Closing

§3.01. Except as otherwise provided in this contract, the closing of title pursuant to this contract ("Closing") shall take place on or about the scheduled date and time of closing specified

in Schedule D (the actual date of the Closing being herein referred to as "Closing Date") at the place specified in Schedule D.

Premises will be delivered vacant and free of any tenancies.

Section 4. Representations and Warranties of Seller

Seller represents and warrants to Purchaser as follows:

§4.01. Unless otherwise provided in this contract, Seller is the sole owner of the Premises.

§4.02. If the Premises are encumbered by an Existing Mortgage(s), no written notice has been received from the Mortgagee(s) asserting that a default or breach exists thereunder which remains uncured and no such notice shall have been received and remain uncured on the Closing Date. If copies of documents constituting the Existing Mortgage(s) and note(s) secured thereby have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals and the Existing Mortgage(s) and note(s) secured thereby have not been modified or amended except as shown in such documents.

~~§4.03. The information concerning written leases (which together with all amendments and modifications thereof are collectively referred to as "Leases") and any tenancies in the Premises not arising out of the Leases (collectively, "Tenancies") set forth in Schedule E attached hereto ("Rent Schedule") is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof, and there are no Leases or Tenancies of any space in the Premises other than those set forth therein and any subleases or subtenancies. Except as otherwise set forth in the Rent Schedule or elsewhere in this contract:~~

~~———— (a) all of the Leases are in full force and effect and none of them has been modified, amended or extended;~~

~~———— (b) no renewal or extension options have been granted to tenants;~~

~~———— (c) no tenant has an option to purchase the Premises;~~

~~———— (d) the rents set forth are being collected on a current basis and there are no arrearages in excess of one month;~~

~~———— (e) no tenant is entitled to rental concessions or abatements for any period subsequent to the scheduled date of closing;~~

~~———— (f) Seller has not sent written notice to any tenant claiming that such tenant is in default, which default remains uncured;~~

~~———— (g) no action or proceeding instituted against Seller by any tenant of the Premises is presently pending in any court, except with respect to claims involving personal injury or property damage which are covered by insurance; and~~

~~———— (h) there are no security deposits other than those set forth in the Rent Schedule;~~

~~If any Leases which have been exhibited to and initialed by Purchaser or its representative contain provisions that are inconsistent with the foregoing representations and warranties, such representations and warranties shall be deemed modified to the extent necessary to eliminate such inconsistency and to conform such representations and warranties to the provisions of the Leases.~~

§4.04. If the Premises or any part thereof are subject to the New York City Rent Stabilization Law, Seller is and on the Closing Date will be a member in good standing of the Real Estate

~~Industry Stabilization Association, and, except as otherwise set forth in the Rent Schedule, there are no proceedings with any tenant presently pending before the Conciliation and Appeals Board in which a tenant has alleged an overcharge of rent or diminution of services or similar grievance, and there are no outstanding orders of the Conciliation and Appeals Board that have not been complied with by Seller.~~

~~§4.05: If the Premises or any part thereof are subject to the New York City Emergency Rent and Rehabilitation Law, the rents shown are not in excess of the maximum collectible rents; and, except as otherwise set forth in the Rent Schedule, no tenants are entitled to abatements as senior citizens, there are no proceedings presently pending before the rent commission in which a tenant has alleged an overcharge of rent or diminution of services or similar grievance, and there are no outstanding orders of the rent commission that have not been complied with by Seller.~~

~~§4.06: If an insurance schedule is attached hereto, such schedule lists all insurance policies presently affording coverage with respect to the Premises, and the information contained therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof.~~

~~§4.07: If a payroll schedule is attached hereto, such schedule lists all employees presently employed at the Premises, and the information contained therein as accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof; and, except as otherwise set forth in such schedule, none of such employees is covered by a union contract and there are no retroactive increases or other accrued and unpaid sums owed to any employee.~~

§4.08. If a schedule of service, maintenance, supply and management contracts ("Service Contracts") is attached hereto, such schedule lists all such contracts affecting the Premises, and the information set forth therein is accurate as of the date set forth therein or, if no date is set forth therein, as of the date hereof.

§4.09. If a copy of a certificate of occupancy for the Premises has been exhibited to and initialed by Purchaser or its representative, such copy is a true copy of the original and such certificate has not been amended, but Seller makes no representation as to compliance with any such certificate.

§4.10. The assessed valuation and real estate taxes set forth in Schedule D, if any, are the assessed valuation of the Premises and the taxes paid or payable with respect thereto for the fiscal year indicated in such schedule. Except as otherwise set forth in Schedule D, there are no tax abatements or exemptions affecting the Premises.

~~§4.11: Except as otherwise set forth in a schedule attached hereto, if any, if the Premises are used for residential purposes, each apartment contains a range and a refrigerator, and all of the ranges and refrigerators and all of the items of personal property (or replacements thereof) listed in such schedule, if any, are and on the Closing Date will be owned by Seller free of liens and encumbrances other than the lien(s) of the Existing Mortgage(s); if any.~~

§4.12. Seller has no actual knowledge that any incinerator, boiler or other burning equipment on the Premises is being operated in violation of applicable law. If copies of a certificate

or certificates of operation therefor have been exhibited to and initialed by Purchaser or its representative, such copies are true copies of the originals.

§4.13. Except as otherwise set forth in Schedule D, Seller has no actual knowledge of any assessment payable in annual installments, or any part thereof, which has become a lien on the Premises.

Section 5. Acknowledgement of Purchaser

Purchaser acknowledges that:

§5.01. Purchaser has inspected the Premises, is fully familiar with the physical condition and state of repair thereof, and, subject to the provisions of §7.01, §8.01, and §9.04, shall accept the Premises "as is" and in their present condition, subject to reasonable use, wear, tear and natural deterioration between now and the Closing Date, without any reduction in the Purchase Price for any change in such condition by reason thereof subsequent to the date of this contract.

§5.02. Before entering into this contract, Purchaser has made such examination of the Premises, the operation, income and expenses thereof and all other matters affecting or relating to this transaction as Purchaser deemed necessary. In entering into this contract, Purchaser has not been induced by and has not relief upon any representations, warranties or statements, whether express or implied, made by Seller or any agent, employee or other representative of Seller or by any broker or any other person representing or purporting to represent Seller, which are not expressly set forth in this contract, whether or not any such representations, warranties or statements were made in writing or orally.

Section 6. Seller's Obligations as to Leases

~~—§6.01: Unless otherwise provided in a schedule attached to this contract, between the date of this contract and the Closing, Seller shall not, without Purchaser's prior written consent, which consent shall not be unreasonably withheld: (a) amend, renew or extend any Lease in any respect, unless required by law; (b) grant a written lease to any tenant occupying space pursuant to a Tenancy; or (c) terminate any Lease or Tenancy except by reason of a default by the tenant thereunder.~~

§6.02. Unless otherwise provided in a schedule attached to this contract, between the date of this contract and the Closing, Seller shall not permit occupancy of, or enter into any new lease for, space in the Building which is presently vacant or which may hereafter become vacant, without first giving Purchaser written notice of the identity of the proposed tenant, together with (a) either a copy of the proposed lease or a summary of the terms thereof in reasonable detail and (b) a statement of the amount of the brokerage commission, if any, payable in connection therewith and the terms of payment thereof. If Purchaser objects to such proposed lease, Purchaser shall so notify Seller within 4 business days after receipt of Seller's notice if such notice was personally delivered to Purchaser, or within 7 business days after the mailing of such notice by Seller to Purchaser, in which case Seller shall not enter into the proposed lease. Unless otherwise provided in a schedule attached to this contract, Purchaser shall pay to Seller at the Closing, in the manner specified in §2.02, the rent and

additional rent that would have been payable under the proposed lease from the date on which the tenant's obligation to pay rent would have commenced if Purchaser had not so objected until the Closing Date, less the amount of the brokerage commission specified in Seller's notice and the reasonable cost of decoration or other work required to be performed by the landlord under the terms of the proposed lease to suit the premises to the tenant's occupancy ("Relletting Expenses"), prorated in each case over the term of the proposed lease and apportioned as of the Closing Date. If Purchaser does not so notify Seller of its objection, Seller shall have the right to enter into the proposed lease with the tenant identified in Seller's notice and Purchaser shall pay to Seller, in the manner specified in §2.02, the Relletting Expenses, prorated in each case over the term of the lease and apportioned as of the later of the Closing Date or the rent commencement date. Such payment shall be made by Purchaser to Seller at the Closing. In no event shall the amount so payable to Seller exceed the sums actually paid by Seller on account thereof.

§6.03. If any space is vacant on the Closing Date, Purchaser shall accept the Premises subject to such vacancy, provided that the vacancy was not permitted or created by Seller in violation of any restrictions contained in this contract. ~~Seller shall not grant any concessions or rent abatements for any period following the Closing without Purchaser's prior written consent. Seller shall not apply all or any part of the security deposit of any tenant unless such tenant has vacated the Premises.~~

§6.04. Seller does not warrant that any particular Lease or Tenancy will be in force or effect at the Closing or that the tenants will have performed their obligations thereunder. The termination of any Lease or Tenancy prior to the Closing by reason of the tenant's default shall not affect the obligations of Purchaser under this contract in any manner or entitle Purchaser to an abatement of or credit against the Purchase Price or give rise to any other claim on the part of Purchaser.

Section 7. Responsibility for Violations

~~§7.01. Except as provided in §7.02 and §7.03, all notes or notices of violations of law or governmental ordinances, orders or requirements which were noted or issued prior to the date of this contract by any governmental department, agency or bureau having jurisdiction as to conditions affecting the Premises and all liens which have attached to the Premises prior to the Closing pursuant to the Administrative Code of the City of New York, if applicable, shall be removed or complied with by Seller. If such removal or compliance has not been completed prior to the closing, Seller shall pay to Purchaser at the Closing the reasonably estimated unpaid cost to effect or complete such removal or compliance, and Purchaser shall be required to accept title to the Premises subject thereto, except that Purchaser shall not be required to accept such title and may terminate this contract as provided in §13.02 if (a) Purchaser's Institutional Lender reasonably refuses to provide financing by reason thereof or (b) the Building is a multiple dwelling and either (i) such violation is rent impairing and causes rent to be unrecoverable under Section 302-a of the Multiple Dwelling Law or (ii) a proceeding has been validly commenced by tenants and is pending with respect to such violation for a judgment directing deposit and use of rents under Article 7-A of the Real Property Actions and Proceedings Law. All such notes or notices of violations noted or issued on or after~~

the date of this contract shall be the sole responsibility of Purchaser.

§7.02. If the reasonably estimated aggregate cost to remove or comply with any violations or liens which Seller is required to remove or comply with pursuant to the provisions of §7.01 shall exceed the Maximum Amount specified in Schedule D (or if none is so specified, the Maximum Amount shall be one-half of one percent of the Purchase Price), Seller shall have the right to cancel this contract, in which event the sole liability of Seller shall be as set forth in §13.02, unless Purchaser elects to accept title to the Premises subject to all such violations or liens, in which event Purchaser shall be entitled to a credit of an amount equal to the Maximum Amount against the monies payable at the Closing.

§7.03. Regardless of whether a violation has been noted or issued prior to the date of this contract, Seller's failure to remove or fully comply with the following violations shall not be an objection to title: (a) any violations of New York City Local Law 5 of 1973, as amended (relating to fire safety in office buildings), if applicable, or (b) any violations which a tenant is required to remove or comply with pursuant to the terms of its lease by reason of such tenant's use or occupancy. Purchaser shall accept the Premises subject to all such violations without any liability of Seller with respect thereto or any abatement of or credit against the Purchase Price, ~~except that if Purchaser's Institutional Lender reasonably refuses to provide financing by reason of the violations described in (b) above, Purchaser shall not be required to accept the Premises subject thereto and Purchaser shall have the right to terminate this contract in the manner provided in §13.02.~~

§7.04. If required, Seller, upon written request by Purchaser, shall promptly furnish to Purchaser written authorizations to make any necessary searches for the purposes of determining whether notes or notices of violations have been noted or issued with respect to the Premises or liens have attached thereto.

Section 8. Destruction, Damage or Condemnation

§8.01. The provisions of Section 5-1311 of the General Obligations Law shall apply to the sale and purchase provided for in this contract.

Section 9. Covenants of Seller

Seller covenants that between the date of this contract and the Closing:

~~§9.01. The Existing Mortgage(s) shall not be amended or supplemented or prepaid in whole or in part. Seller shall pay or make, as and when due and payable, all payments of principal and interest and all deposits required to be paid or made under the Existing Mortgage(s).~~

~~§9.02. Seller shall not modify or amend any Service Contract or enter into any new service contract unless the same is terminable without penalty by the then owner of the Premises upon not more than 30 days' notice.~~

~~§9.03. If an insurance schedule is attached hereto, Seller shall maintain in full force and effect until the closing the insurance policies described in such schedule or renewals thereof for no more than one year of those expiring before the Closing.~~

§9.04. No fixtures, equipment or personal property included in this sale shall be removed from the Premises unless the same are

replaced with similar items of at least equal quality prior to the Closing.

§9.05. Seller shall not withdraw, settle or otherwise compromise any protest or reduction proceeding affecting real estate taxes assessed against the Premises for any fiscal period in which the Closing is to occur or any subsequent fiscal period without the prior written consent of Purchaser, which consent shall not be unreasonably withheld. Real estate tax refunds and credits received after the Closing date which are attributable to the fiscal tax year during which the Closing Date occurs shall be apportioned between Seller and Purchaser, after deducting the expenses of collection thereof, which obligation shall survive the Closing.

§9.06. Seller shall allow Purchaser or Purchaser's representatives access to the Premises, the Leases and other documents required to be delivered under this contract upon reasonable prior notice at reasonable times.

Section 10. Seller's Closing Obligations

At the Closing, Seller shall deliver the following to Purchaser:

§10.01. A deed which shall be a Referee's Deed from Salvatore Lecci, Esq., referee in the foreclosure action captioned GCC LAND DEVELOPMENT CORP., V. DERMKRAFT, P. C., et al, Nassau County Supreme Court Index No. 00-013468 in proper statutory form for recording and shall be duly executed and acknowledged so as to convey to purchaser fee simple title to the premises. In connection with that Referee's Deed, Seller shall assign Seller's bid in said foreclosure action as reflected in the Terms of Sale to Purchaser in recordable form.

~~§10.02. All Leases initialed by Purchaser and all others in Seller's possession.~~

~~§10.03. A schedule of all cash security deposits and a check or credit to Purchaser in the amount of such security deposits, including any interest thereon, held by Seller on the Closing Date under the Leases, or if held by an Institutional Lender, an assignment to Purchaser and written instruction to the holder of such deposits to transfer the same to Purchaser, and appropriate instruments of transfer or assignment with respect to any lease securities which are other than cash.~~

~~§10.04. A schedule updating the Rent Schedule and setting forth all arrears in rents and all prepayments of rents.~~

~~§10.05. All Service Contracts initialed by Purchaser and all others in Seller's possession which are in effect on the Closing Date and which are assignable by Seller.~~

~~§10.06. An assignment to Purchaser, without recourse or warranty, of all of the interest of Seller in those Service Contracts, insurance policies, certificates, permits and other documents to be delivered to Purchaser at the Closing which are then in effect and are assignable by Seller.~~

~~§10.07. (a) Written consent(s) of the Mortgagee(s), if required under §2.03(b), and (b) certificate(s) executed by the Mortgagee(s) in proper form for recording and certifying (i) the amount of the unpaid principal balance thereof, (ii) the maturity date thereof, (iii) the interest rate, (iv) the last date to which interest has been paid thereon and (v) the amount of any escrow deposits held by the Mortgagee(s). Seller shall pay the fees for recording such certificate(s). Any Mortgagee which is an Institutional Lender may furnish a letter complying with Section 274-a of the Real Property Law in lieu of such certificate.~~

~~§10.08. An assignment of all Seller's right, title and interest in escrow deposits for real estate taxes, insurance premiums and other amounts, if any, then held by the Mortgagee(s).~~

~~§10.09. All original insurance policies with respect to which premiums are to be apportioned or, if unobtainable, true copies or certificates thereof.~~

§10.10. To the extent they are then in Seller's possession and not posted at the Premises, certificates, licenses, permits, authorizations and approvals issued for or with respect to the Premises by governmental and quasi-governmental authorities having jurisdiction.

§10.11. Such affidavits as Purchaser's title company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to Seller's name.

§10.12. Checks to the order of the appropriate officers in payment of all applicable real property transfer taxes and copies of any required tax returns therefor executed by Seller which checks shall be certified or official bank checks if required by the taxing authority, unless Seller elects to have Purchaser pay any of such taxes and credit Purchaser with the amount thereof.

~~§10.13. To the extent they are then in Seller's possession, copies of current painting and payroll records. Seller shall make all other Building and tenant files and records available to Purchaser for copying, which obligation shall survive the Closing.~~

~~§10.14. An original letter, executed by Seller or by its agent, advising the tenants of the sale of the Premises to purchaser and directing that rents and other payments thereafter be sent to Purchaser or as Purchaser may direct.~~

~~§10.15. Notice(s) to the Mortgagee(s), executed by Seller or by its agent, advising of the sale of the Premises to Purchaser and directing that future bills and other correspondence should thereafter be sent to Purchaser or as Purchaser may direct.~~

§10.16. If Seller is a corporation and if required by Section 909 of the Business Corporation Law, a resolution of Seller's board of directors authorizing the sale and delivery of the deed and a certificate executed by the secretary or assistant secretary of Seller certifying as to the adoption of such resolution and setting forth facts showing that the transfer complies with the requirements of such law. The deed referred to in §10.01 shall also contain a recital sufficient to establish compliance with such law.

§10.17. Possession of the Premises in the condition required by this contract, subject to the Leases and Tenancies, and keys therefor.

§10.18. Any other documents required by this contract to be delivered by Seller.

Section 11. Purchaser's Closing Obligations

At the Closing, Purchaser shall:

§11.01. Deliver to Seller checks in payment of the portion of the Purchase Price payable at the Closing, as adjusted for apportionments under Section 12, plus the amount of escrow deposits, if any, assigned pursuant to §10.08.

~~§11.02. Deliver to Seller the Purchase Money Mortgage, if any, in proper form for recording, the note secured thereby, financing statements covering personal property, fixtures and equipment included in this sale and replacements thereof, all properly executed, and Purchaser shall pay the mortgage recording tax and recording fees for any Purchase Money Mortgage.~~

~~§11.03. Deliver to Seller an agreement indemnifying and agreeing to defend Seller against any claims made by tenants with respect to tenants' security deposits to the extent paid, credited or assigned to Purchaser under §10.03.~~

§11.04. Cause the deed to be recorded, duly complete all required real property transfer tax returns and cause all such returns and checks in payment of such taxes to be delivered to the appropriate officers promptly after the Closing.

§11.05. Deliver any other documents required by this contract to be delivered by Purchaser.

Section 12. Apportionments

§12.01. The following apportionments shall be made between the parties at the Closing as of the close of business on the day prior to the Closing Date:

~~(a) prepaid rents and Additional Rents (as defined in §12.03);~~

~~(b) interest on the Existing Mortgage(s);~~

(c) real estate taxes, water charges, sewer rents and vault charges, if any, on the basis of the fiscal period for which assessed, except that if there is a water meter on the Premises, apportionment at the Closing shall be based on the last available reading, subject to adjustment after the Closing when the next reading is available;

~~(d) wages, vacation pay, pension and welfare benefits and other fringe benefits of all persons employed at the Premises whose employment was not terminated at or prior to the Closing;~~

(e) value of fuel stored on the Premises, at the price then charged by Seller's supplier, including any taxes;

~~(f) charges under transferable Service Contracts or permitted renewals or replacements thereof;~~

~~(g) permitted administrative charges, if any, on tenants' security deposits;~~

~~(h) dues to rent stabilization associations, if any;~~

~~(i) insurance premiums on transferable insurance policies listed on a schedule hereto or permitted renewals thereof;~~

~~(j) Relletting Expenses under §6.02, if any; and~~

(k) any other items listed in Schedule D.

If the Closing shall occur before a new tax rate is fixed, the apportionment of taxes at the Closing shall be upon the basis of the old tax rate for the preceding period applied to latest assessed valuation. Promptly after the new tax rate is fixed, the apportionment of taxes shall be recomputed. Any discrepancy resulting from such recomputation and any errors or missions in computing apportionments at Closing shall be promptly corrected, which obligations shall survive the Closing.

§12.02. If any tenant is in arrears in the payment of rent on the Closing Date, rents received from such tenant after the Closing shall be applied in the following order or priority: (a) first to the month preceding the month in which the Closing occurred; (b) then to the month in which the Closing occurred; (c) then to any month or months following the month in which the Closing occurred; and (d) then to the period prior to the month preceding the month in which the Closing occurred. If rents or any portion thereof received by Seller or Purchaser after the Closing are payable to the other party by reason of this allocation, the appropriate sum, less a proportionate share of any reasonable attorneys' fees, costs and expenses of collection thereof shall be promptly paid to the other party which obligation shall survive the Closing.

~~§12.03. If any tenants are required to pay percentage rent, escalation charges for real estate taxes, operating expenses, cost-of-living adjustments or other charges of a similar nature ("Additional Rents") and any Additional Rents are collected by Purchaser after the Closing which are attributable in whole or in~~

~~part of any period prior to the Closing, then Purchaser shall promptly pay to Seller Seller's proportionate share thereof, less a proportionate share of any reasonable attorneys' fees, costs and expenses of collection thereof; if and when the tenant paying the same has made all payments of rent and Additional Rent then due to purchaser pursuant to the tenant's Lease, which obligation shall survive the Closing.~~

Section 13. Objections to Title, Failure of Seller or Purchaser to perform and Vendee's Lien

§13.01. Purchaser shall promptly order an examination of title and shall cause a copy of the title report to be forwarded to Seller's attorney upon receipt. Seller shall be entitled to a reasonable adjournment or adjournments of the Closing for up to 60 days or until the expiration date of any written commitment of Purchaser's Institutional Lender delivered to Purchaser prior to the scheduled date of Closing, whichever occurs first, to remove any defects in or objections to title noted in such title report and any other defects or objections which may be disclosed on or prior to the Closing Date.

§13.02. If Seller shall be unable to convey title to the Premises at the Closing in accordance with the provisions of this Contract or if Purchaser shall have any other grounds under this contract for refusing to consummate the purchase provided for herein, Purchaser, nevertheless, may elect to accept such title as Seller may be able to convey with a credit against the monies payable at the Closing equal to the reasonably estimated cost to cure the same (up to the Maximum Expense described below), but without any other credit or liability on the part of Seller. If Purchaser shall not so elect, purchaser may terminate this contract and the sole liability of Seller shall be to refund the Downpayment to Purchaser and to reimburse Purchaser for the net cost of title examination, but not to exceed the net amount charged by Purchaser's title company therefor without issuance of a policy, and the net cost of updating the existing survey or, the cost of a new survey, if such existing survey was not capable of being updated and a new survey was required by Purchaser's Institutional Lender. Upon such refund and reimbursement, this contract shall be null and void and the parties hereto shall be relieved of all further obligations and liability other than any arising under Section 14. Seller shall not be required to bring any action or proceeding or to incur any expense in excess of the Maximum Expense specified in Schedule D (or if none is so specified, the Maximum Expense shall be one-half of one percent of the Purchase Price) to cure any title defect or to enable Seller otherwise to comply with the provisions of this contract, but the foregoing shall not permit Seller to refuse to pay off at the Closing, to the extent of the monies payable at the Closing, mortgages on the Premises, other than Existing Mortgages, of which Seller has actual knowledge.

§13.03. Any unpaid taxes, assessments, water charges and sewer rents, together with the interest and penalties thereon to a date not less than two days following the Closing Date, and any other liens and encumbrances which Seller is obligated to pay and discharge or which are against corporations, estates or other persons in the chain of title, together with the cost of recording or filing any instruments necessary to discharge such liens and encumbrances of record, shall be paid by Purchaser with, may be paid out of the proceeds of the monies payable at the Closing if Seller delivers to Purchaser on the Closing Date official bills for such taxes, assessments, water charges, sewer rents, interests and penalties and instruments in recordable form sufficient to discharge any other liens and encumbrances of record. Upon request made a reasonable time before the Closing, Purchaser shall provide at the Closing separate checks for the foregoing payable

to the order of the holder of any such lien, charge or encumbrance and otherwise complying with §2.02. ~~If Purchaser's title insurance company is willing to insure both Purchase and Purchaser's Institutional Lender, if any, that such charges, liens and encumbrances will not be collected out of or enforced against the Premises, then, unless Purchaser's Institutional Lender reasonably refuses to accept such insurance in lieu of actual payment and discharge, Seller shall have the right in lieu of payment and discharge to deposit with the title insurance company such funds or assurances or to pay such special or additional premiums as the title insurance company may require in order to so insure.~~ In such case the charges, liens and encumbrances with respect to which the title insurance company has agreed so to insure shall not be considered objections to title.

§13.04. If Purchaser shall default in the performance of its obligation under this contract to purchase the Premises, the sole remedy of Seller shall be to retain the Downpayment as liquidated damages for all loss, damage and expense suffered by Seller, including without limitation the loss of its bargain.

§13.05. Purchaser shall have a vendee's lien against the Premises for the amount of the Downpayment, but such lien shall not continue after default by Purchaser under this contract.

Section 14. Broker

§14.01. If a broker is specified in Schedule D, Seller and Purchaser mutually represent and warrant that such broker is the only broker with whom they have dealt in connection with this contract and that neither Seller nor Purchaser knows of any other broker who has claimed or may have the right to claim a commission in connection with this transaction, unless otherwise indicated in Schedule D. The commission of such broker shall be paid pursuant to separate agreement by the party specified in Schedule D. If no broker is specified in Schedule D, the parties acknowledge that this contract was brought about by direct negotiation between Seller and Purchaser and that neither Seller nor Purchaser knows of any broker entitled to a commission in connection with this transaction. Unless otherwise provided in Schedule D, Seller and Purchase shall indemnify and defend each other against any costs, claims or expenses, including attorneys' fees, arising out of the breach on their respective part of any representations, warranties or agreements contained in this paragraph. The representations and obligations under this paragraph shall survive the Closing or, if the Closing does not occur, the termination of this contract.

Section 15. Notices

§15.01. All notices under this contract shall be in writing and shall be delivered personally or shall be sent by prepaid registered or certified mail, addressed as set forth in Schedule D, or as Seller or Purchaser shall otherwise have given notice as herein provided.

Section 16. Limitations on Survival of Representations, Warranties, Covenants and other Obligations

§16.01. Except as otherwise provided in this contract, no representations, warranties, covenants or other obligations of Seller set forth in this contract shall survive the Closing, and no action based thereon shall be commenced after the Closing. The representations, warranties, covenants and other obligations of Seller set forth in §4.03, §6.01 and §6.02 shall survive until the Limitation Date specified in Schedule D (or if none is so specified, the Limitation Date shall be the date which is six months after the Closing Date), and no action based thereon shall be commenced after the Limitation Date.

§16.02. The delivery of the deed by Seller, and the acceptance thereof by Purchaser, shall be deemed the full performance and discharge of every obligation on the part of Seller to be performed hereunder, except those obligations of Seller which are expressly stated in this contract to survive the Closing.

Section 17. Miscellaneous Provisions

§17.01. ~~If consent of the Existing Mortgagee(s) is required under §2.03(b);~~ The Purchaser shall not assign this contract or its rights hereunder without the prior written consent of Seller. No permitted assignment of Purchaser's rights under this contract shall be effective against Seller unless and until an executed counterpart of the instrument of assignment shall have been delivered to Seller and Seller shall have been furnished with the name and address of the assignee. The term "Purchaser" shall be deemed to include the assignee under any such effective assignment.

§17.02. This contract embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this contract. Neither this contract nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

§17.03. This contract shall be governed by, and construed in accordance with, the law of the State of New York.

§17.04. The captions in this contract are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this contract or any of the provisions hereof.

§17.05. This contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

§17.06. This contract shall not be binding or effective until properly executed and delivered by Seller and Purchaser.

§17.07. As used in this contract, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular, as the context may require.

§17.08. If the provisions of any schedule or rider to this contract are inconsistent with the provisions of this contract, the provisions of such schedule or rider shall prevail.

ANNEXED HERETO AND MADE A PART HEREOF ARE SCHEDULES A TO F AND RIDER SECTIONS 19 THROUGH 38 AND THE FORMS OF PURCHASE MONEY NOTE AND MORTGAGE TO BE DELIVERED AT TITLE CLOSING.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

Seller: GCC LAND DEVELOPMENT CORP.

By: 

Eugene Cook, President/Secretary

Purchaser: 67 SYLVESTER STREET HOLDINGS, LLC.

By: 

THOMAS MARASCO, Member

Schedule A

DESCRIPTION OF PREMISES

(to be attached separately and to include tax map designation)

Schedule B

PERMITTED EXCEPTIONS

1. Zoning regulations and ordinances which are not violated by the existing structures or present use thereof and which do not render title uninsurable.

2. Consents by the Seller or any former owner of the Premises for the erection of any structure or structures on, under or above any street or streets on which the Premises may abut.

~~3. The Existing Mortgage(s) and financing statements, assignments of leases and other collateral assignments ancillary thereto.~~

~~4. Leases and Tenancies specified in the Rent Schedule and any new leases or tenancies not prohibited by this contract.~~

5. Unpaid installments of assessments not due and payable on or before the Closing Date.

6. Financing statements, chattel mortgages and liens on personalty filed more than 5 years prior to the Closing Date and not renewed, or filed against property or equipment no longer located on the Premises or owned by Tenants.

7. (a) Rights of utility companies to lay, maintain, install and repair pipes, lines, poles, conduits, cable boxes and related equipment on, over and under the Premises, provided that none of such rights imposes any monetary obligation on the owner of the Premises.

(b) Encroachments of stoops, areas, cellar steps, trim cornices, lintels, window sills, awnings, canopies, ledges, fences, hedges, coping and retaining walls projecting from the Premises over any street or highway or over any adjoining property and encroachments of similar elements projecting from adjoining property over the Premises.

(c) Revocability or lack of right to maintain vaults, coal chutes, excavations or sub-surface equipment beyond the line of the Premises.

(d) Any state of facts that an accurate survey would disclose, provided that such facts do not render title uninsurable. For the purposes of this contract, none of the facts shown on the survey, if any, identified below shall be deemed to render title uninsurable.

8. Purchaser shall accept title subject to:

(a) Nassau County Covenants and Restrictions recorded in Liber 3232 Page 323.

(b) Nassau County Covenants and Restrictions recorded in Liber 4781 Page 71.

Schedule C
PURCHASE PRICE

The Purchase Price shall be aid as follows:

(a) By check subject to collection, the receipt of which is hereby acknowledged by Seller:

\$ -0-

(b) By check or checks payable in New York State delivered to Seller at the Closing in accordance with the provisions of §2.02:

\$ 135,000.00

~~(c) By acceptance of title subject to the following Existing Mortgage(s):~~

(d) By execution and delivery to Seller by Purchaser or its assignee of a note secured by a Purchase Money Mortgage on the Premises in substantially the form, mutatis mutandis, of the note and purchase money mortgage annexed hereto.

\$ 500,000.00

Purchase Price

\$ 635,000.00

Schedule D
MISCELLANEOUS

1. Title insurer designated by the parties (§1.02):
Commonwealth Land Title Insurance Company.

~~2. Last date for consent by Existing Mortgagee(s) (§2.03(b)):~~

~~3. Maximum Interest Rate of any Refinanced Mortgage (§2.04(b)):~~

~~4. Prepayment Date on or after which Purchase Money Mortgage may be prepaid (§2.04(c)):~~

5. Seller's tax identification number (§2.05): 01-0567870

6. Purchaser's tax identification number (§2.05):

7. Scheduled time and date of Closing (§3.01): at 2:30 p.m. on Thursday, October 23, 2003.

8. Place of Closing (§3.01): At the offices of Meyer, Suozzi, English & Klein, P.C. 1505 Kellum Place, Mineola, New York 11501.

~~9. Assessed valuation of Premises (§4.10):~~

~~10. Fiscal year and annual real estate taxes on Premises (§4.10):~~

~~11. Tax abatements or exemptions affecting Premises (§4.10):~~

~~12. Assessments on Premises (§4.13):~~

13. Maximum Amount which Seller must spend to cure violations, etc. (§7.02): \$0.00

14. Maximum Expense of Seller to cure title defects, etc. (§13.02): \$0.00

15. Broker, if any (§14.01): No Broker

16. Party to pay broker's commission (§14.01): N/A

17. Address for notices (§15.01):

If to Seller:

GCC LAND DEVELOPMENT CORP.

Attn: Eugene Cook

59 New York Avenue

Westbury, New York 11590

Tele: 516/997-6535

Fax: 516/997-2897

with a copy to Seller's attorney:

GCC LAND DEVELOPMENT CORP.

c/o MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

1505 Kellum Place

Mineola, New York 11501

Attn: James T. Rochford

Tele: 516/741-6565 - Fax: 516/741-3259

If to Purchaser:

67 SYLVESTER STREET HOLDINGS, LLC

Attn: Mr. Thomas Morasco

792 Carmen Avenue

Westbury, New York 11590

Tele: 516/ - Fax: 516/

with a copy to Purchaser's attorney:
67 SYLVESTER STREET HOLDINGS, LLC, Mr. Thomas
Morasco
c/o TANNENBAUM, HELPERN, SYRACUSE &
HIRSCHTRITT
900 Third Avenue,
New York, New York 10022-4775
Attn: Neil Botwinoff, Esq.
Tele: 212/508-6700 - Fax: 212/371-1084

18. Limitation Date for actions based on Seller's surviving representations and other obligations (§16.01): Date of title closing hereunder
19. Schedules or Riders (§17.07):

Schedule E

Annexed form of Purchase Money Note.

Schedule F

Annexed form of Purchase Money Mortgage.

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State of New York, known and designed as Lots 13 through 15, inclusive and Lots 69 through 72, inclusive, in Block 76 on a certain map entitled, "2nd Map of the City of New Cassel, Queens County, Long Island, New York, surveyed August 1891 by William Hauxhurst, Surveyor", and filed in the Office of the Clerk of the County of Nassau under File No. 3, Case No. 14, which said lots, according to said map are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Kinkel Street distant 200.00 feet southerly from the corner formed by the intersection of the easterly side of Kinkel Street and the southerly side of Main Street;

RUNNING THENCE easterly at right angles to the easterly side of Kinkel Street, 100.00 feet;

RUNNING THENCE southerly parallel with the easterly side of Kinkel Street, 25.00 feet;

RUNNING THENCE easterly again at right angles to the easterly side of Kinkel Street, 100.00 feet to the westerly side of Sylvester Street;

RUNNING THENCE southerly along the westerly side Sylvester Street, 100.00 feet;

RUNNING THENCE westerly again at right angles to the easterly side of Kinkel Street, 100.00 feet;

RUNNING THENCE northerly parallel with the easterly side of Kinkel Street, 50.00 feet;

RUNNING THENCE westerly again at right angles to the easterly side of Kinkel Street, 100.00 feet to the said easterly side of Kinkel Street;

RUNNING THENCE northerly along the easterly side of Kinkel Street, 75.00 feet to the point or place of BEGINNING.

The printed part of this contract is hereby modified and supplemented. Wherever there is conflict between the terms of this rider and the printed part of this contract, the provisions of this rider are paramount and the contract shall be construed accordingly.

Section 19. No Recording Or Assignment. It is expressly understood and agreed that this agreement or any memorandum hereof shall **NOT** be recorded and this agreement shall **NOT** be assigned without the prior written consent of the Seller and any such recording or assignment without such consent, at the sole option of the Seller, shall be null and void and of no force or effect and, at the sole option of the Seller, all of the rights of the Purchaser hereunder shall thereupon cease and terminate and the Seller shall have the right to retain the contract Down Payment hereunder as and for liquidated damages. Notwithstanding the foregoing or any contrary provision of this Contract, Purchaser may, at Closing and only at Closing, without Seller's consent, assign its rights to any entity in which James Giordano has an equity interest of not less than 25%, or an affiliate of Purchaser consisting of the same principals of Purchaser provided that an Assignment and Assumption Agreement in recordable form reasonably acceptable to Seller is delivered to Seller's counsel for review prior to Closing together with the affidavit of a principal confirming compliance with the provisions of this paragraph.

Section 20. Sold "As Is". The Premises are sold and the Purchaser accepts same "AS IS" subject to reasonable wear and tear, and there is and shall be no obligation on the part of the Seller to alter, restore or repair the Premises in any manner whatsoever. Except as herein provided, the Seller has not made and does not make any representation, warranty or guaranty or statement as to the physical condition, income, expenses, taxes, operation or other matters or things affecting the Premises, any personal property, fixtures or appliances, utilities, equipment or furnishings at the Premises and included in this sale, if any, or as to the physical condition of or use to which the Premises may be put, or its soil or water table. This paragraph shall survive delivery of the deed.

Section 21. "Subject To" Provisions. The Premises are sold subject also to the following:

(a) The state of facts, which an accurate survey may show or inspection of the Premises may show provided such facts do not render title to the Premises uninsurable.

(b) Any and all covenants, declarations, agreements, reservations, restrictions and easements of record, if any.

(c) Rights of other or others, if any, relating to the construction and maintenance in connection with any public utility of wires poles, pipes, conduits and appurtenances thereto, on under or across the Premises.

streets on which the Premises may abut.

(h) Possible lack of right to maintain vaults, coal hole covers, coal chutes and other installations, if any, beyond the building lines; vaults and vault tax, if any.

(i) Encroachments, if any, of building walls, retaining walls, cellar doors and steps, foundations, windows, trim, coping, railings, coal hole covers, chimneys, cornices, ornamental projections, sidewalk elevators, fences, fire escapes, stoops and areas and appurtenances upon any street or highway or of any street or highway adjoining the Premises or which encroach upon adjoining real property.

(j) Encroachments, if any, upon, and affixations, if any, to the Premises and/or buildings thereon, or walls, foundations, or appurtenances of buildings or structures located on adjoining real property.

(k) Variations of hedges, shrubbery or fences with record lines and variations between the record lot lines of the Premises and those shown on the tax map.

(l) Standard exceptions contained in the form of title insurance policy then issued by title companies which are members of the American Land Title Association.

(m) Any easement or right of use created in favor of any public utility company for electric, steam, gas, telephone, water, T.V. cable or other service and the right to install, use, maintain, repair and replace wiring, cables, terminal boxes, lines, service connections, poles, mains, facilities and the like upon, under and across the Premises, providing that such easements are located within the 10 feet perimeter from the border of the Premises except as shown on the January 29, 2002 survey annexed as Schedule E hereto.

Section 22. Submission Of Contract. Submission by Seller of this contract for review and execution by the Purchaser is not an offer and shall not confer any rights or impose any obligations on either party unless and until both Seller and Purchaser have executed copies of this contract and duplicate originals thereof shall have been delivered to the respective attorney or attorneys for each of the respective parties hereto.

Section 23. Purchaser Representations. The Purchaser represents and warrants to the Seller as follows and such representations shall survive delivery of the deed:

(a) The Purchaser is represented by an attorney and represents that before Purchaser signed this contract, Purchaser reviewed the terms and conditions with said attorney, and Purchaser is fully familiar with such terms.

estate broker's "set-ups" or information pertaining to the premises furnished by any real estate broker, agent, servants, or any other person which is not expressly set forth herein.

Section 24. (Deliberately deleted.)

Section 25. (Deliberately deleted.)

Section 26. (Deliberately deleted.)

Section 27. Adjustments and Apportionments. All adjustments and apportionments required at title closing shall be made as of midnight of the day before the title closing. For the purpose of making such prorations, it shall be presumed that there are 360 days in each year and 30 days in each month regardless of the number of days actually in the month of closing or in any month prior or subsequent to the date of closing.

Section 28. (Deliberately deleted.)

Section 29. (Deliberately deleted.)

Section 30. Seller's Disclaimer. Seller specifically disclaims any warranty, implied or otherwise, of either quality or title, as to any personal property included in this sale and purchaser agrees, to take the same "AS IS", and no part of the purchase price shall be deemed to be paid by the Purchaser for the same.

Section 31. (Deliberately deleted.)

Section 32. Delivery of Deed. Upon delivery of the deed, the balance of the purchase price owing Seller, must be paid by good certified check or checks of Purchaser or by an official bank check or checks, payable in New York State, drawn upon or made by a bank or trust company which is a member of the New York Clearing House Association and which has offices for payment of such check or checks in New York City or Nassau County, New York, payable in such amounts and to the order of Seller or to whomever Seller directs payment to be made. Seller may request said balance of the purchase price to be made by one or more such checks payable in various amounts to one or more payees as Seller may direct. Seller will not accept endorsed checks, bank attorney's escrow checks or corporate checks.

Section 33. (Deliberately deleted.)

Section 34. (Deliberately deleted.)

Section 35. (Deliberately deleted.)

Section 36. Miscellaneous.

(a) Seller and Purchaser do not intend by any provision of this agreement to confer any right, remedy or benefit upon any third party, and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this agreement.

(b) If any term or provision of this agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this agreement shall not be affected thereby, and each such other term or provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 37. (Deliberately deleted.)

Section 38. REIMBURSEMENT BY SELLER.

Notwithstanding anything to the contrary contained herein and effective only during the period that Seller holds the purchase money mortgage on the Premises but not effective after said mortgage is satisfied, Seller agrees to reimburse Purchaser for sums, not to exceed \$50,000.00, which Purchaser pays to New York State Department of Environmental Conservation in connection with a clean up at the Premises performed prior to the date of this contract.

SELLER:

GCC LAND DEVELOPMENT CORP.

By: 

Eugene Cook, President/Secretary

PURCHASER:

67 SYLVESTER STREET HOLDINGS, LLC

By: 

Thomas Marasco, Member

Exhibit C

PURCHASE MONEY NOTE

October 23, 2003

\$500,000.00

FOR VALUE RECEIVED, 67 SYLVESTER STREET HOLDINGS, LLC., having an address at 792 Carmen Avenue, Westbury, New York 11590 ("Maker"), hereby covenants and promises to pay to GCC LAND DEVELOPMENT CORP., having an address 59 New York Avenue, Westbury, New York 11590 ("Payee") or order, at Payee's address first above written or at such other address as Payee may designate in writing, Five Hundred Thousand (\$500,000.00) Dollars, lawful money of the United States of America, together with interest thereon from the date hereof at the rate of seven percent (7 %) per annum, which principal and interest shall be payable in equal monthly installments of \$ Four Thousand, Four Hundred and Ninety-Four and 14 /100 Dollars (\$4,494.14) each, commencing on the first day of January, 2004, and continuing on the first day of each calendar month thereafter, to be applied first against accrued but unpaid interest at the aforesaid rate on the outstanding principal amount, and then in reduction of principal, until December 1, 2018, on which date all outstanding principal and accrued but unpaid interest shall be due and payable.

Maker covenants and agrees with Payee as follows:

1. Maker will pay the indebtedness evidenced by this Note as provided herein.
2. This Note is secured by a purchase money mortgage of even date herewith (the "Mortgage"), which Mortgage is a lien upon the property which is more particularly described in the Mortgage. The Mortgage was executed by Maker in favor of Payee in connection with the sale by Payee to Maker of all Payee's interest in the property described in the Mortgage . All of the covenants, conditions and agreements contained in the Mortgage expressly are incorporated by reference herein and hereby are made a part hereof and, in the event of any conflict between the terms of this Note and the terms of the Mortgage, the terms of the Mortgage shall be paramount and shall govern.
3. In the event any payment due hereunder shall not be paid within ten (10) days of the date when due, such payment shall bear interest at the lesser of fifteen percent (15%) per annum or the highest lawful rate permitted under applicable law, from the date when such payment was due until paid. In addition, Maker shall pay a late payment premium of five percent (5%) of any principal or interest payment made more than ten (10) days after the due date thereof, which premium shall be paid with such late payment. This paragraph shall not be deemed to extend or otherwise modify or amend the date when any payments are due hereunder. The obligations of Maker under this Note are subject to the limitation that payments of interest shall not be required to the extent that the charging of or the receipt of any such payment by the holder of this Note would be contrary to, or prohibited by, the provisions of law applicable to the holder of this Note limiting the maximum rate of interest which may be charged or collected by the holder of this Note.
4. The holder of this Note may declare the entire unpaid amount of principal and interest under this Note to be immediately due and payable upon the occurrence of any Event of Default under the Mortgage beyond any applicable grace period provided for herein or in said Mortgage. Forbearance to exercise this right to accelerate the maturity of the principal indebtedness with respect to any Event of Default shall not constitute a waiver of said right as to any other or subsequent Event of Default.
5. Maker hereby waives presentment for payment, demand, protest, notice of protest, notice of non-payment, and notice of dishonor of this Note, Maker hereby consents that Payee at any time

may extend the time of payment of all or any part of the indebtedness secured hereby, or may grant any other indulgences.

6. Any notice or demand required or permitted to be made or given hereunder shall be deemed sufficiently made and given if given by personal service or by the mailing of such notice or demand by postage-paid, certified or overnight mail, return receipt requested, addressed, if to Maker, at Maker's address first above written, or if to Payee, at Payee's address first above written. Either party may change its address by like notice to the other party.

7. This Note may not be changed or terminated orally, but only by an agreement in writing signed and duly acknowledged by the party against whom enforcement of any change, modification, termination, waiver, or discharge is sought.

8. This Note shall be construed and enforced in accordance with the laws of the State of New York.

9. Maker may make a full prepayment or partial prepayments of principal at any time before they are due without paying any prepayment charge or penalty.

IN WITNESS WHEREOF, Maker has executed this note as of the date first above written.

67 SYLVESTER STREET HOLDINGS, LLC

By: _____
Thomas Marasco, Member

STATE OF NEW YORK)

: ss.:

COUNTY OF NASSAU)

On the 23rd day of October in the year 2003, before me, the undersigned, a notary public in and for said State, personally appeared THOMAS MARASCO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

PURCHASE MONEY MORTGAGE

MORTGAGE, dated October 23, 2003, made by 67 SYLVESTER STREET HOLDINGS, LLC, having an address at 792 Carmen Avenue, Westbury, New York 11590 ("Mortgagor"), to GCC LAND DEVELOPMENT CORP., having an address at 59 New York Avenue, Westbury, New York 11590 ("Mortgagee")

Recital

Mortgagor is justly indebted to Mortgagee in the sum of Five Hundred Thousand (\$500,000.00) Dollars, which is evidenced by a Note of Mortgagor of even date herewith in said principal amount (the "Note"). Mortgagor, in order to secure the payment of the Note, has duly executed and delivered this Mortgage.

This Mortgage is a purchase money Mortgage given by Mortgagor to secure a portion of the purchase price required to be paid by Mortgagor to Mortgagee in connection with the sale of the Property hereinafter described.

Definitions

Mortgagor and Mortgagee agree that, unless the context hereof otherwise specifies or requires, the following terms shall have the meanings herein specified. Said definitions shall be applicable equally to the singular and the plural forms of such terms.

"Chattels" shall mean all fixtures, fittings, appliances, apparatus, equipment, machinery and articles of personal property and replacements thereof, other than those owned by lessees, now or at any time hereafter affixed to, attached to, placed upon, or used in any way in connection with the complete and comfortable use, enjoyment, occupancy or operation of the Improvements on the Premises.

"Event of Default" shall mean any event and circumstance described as an Event of Default in Section 2.01 hereof. "Improvements" shall mean all structures or buildings now or hereafter located upon the Premises or any part thereof, including all equipment, apparatus, machinery and fixtures of every kind and nature whatsoever forming part of said structures or buildings.

"Involuntary Rate" shall mean the lesser of of Fifteen percent (15%) per annum or the maximum rate permitted by law.

"Property" shall mean the Premises, the Improvements, the Chattels and all other property, rights and interests described in the Granting Clause of this Mortgage.

"Premises" shall mean:

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at Westbury, County of Nassau and State of New York, being more particularly described in Exhibit A attached hereto and made a part hereof,

TOGETHER with all right, title and interest, if any, of Mortgagor in and to any streets and roads abutting the above described real property to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of Mortgagor in and to said real property which is designated as Section: 11, Block: 76 and Lots: 13, 14, 15, 69, 70, 71 and 72 on the Nassau County Land and Tax Map.

All terms in this Mortgage which are not defined above shall have the meanings set forth in this Mortgage.

Granting Clause

NOW, THEREFORE, in order to secure the payment of the principal, interest and any other sums payable under the Note and this Mortgage, and the observance and performance of the provisions hereof and of the Note, Mortgagor hereby mortgages to the Mortgagee all estate, right, title and interest of Mortgagor in, to and under any and all of the following described property (the "Property"), whether now owned or hereafter acquired:

- (a) the Premises;
- (b) the Improvements;
- (c) the Chattels;
- (d) all leases of the Premises, now or hereafter entered into and all right, title and interest of Mortgagor thereunder, including without limitation cash or securities deposited thereunder to secure the payment or performance by the lessees of their obligations thereunder, whether such cash or securities are to be held until the expiration of the terms of such leases or applied to one (1) or more of the installments of rent coming due immediately prior to the expiration of such terms, and including the right, upon the happening of an Event of Default, to receive and collect the rents thereunder; and
- (e) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including without limitation insurance proceeds and condemnation awards.

ARTICLE I

Covenants of Mortgagor

Mortgagor covenants and agrees as follows:

1.01. Mortgagor shall punctually pay the principal, interest and all other sums to become due under the Note, at the time and place and in the manner specified in the Note, in the coin or currency of the United States of America which at the time of such payment shall be legal tender for the payment of public and private debts.

1.02. Mortgagor represents and warrants that it has good and marketable title to the Premises; that the Premises are subject to no lien, claim or encumbrance except as set forth herein; that Mortgagor now and hereafter will own the Chattels free and clear of all liens, claims and encumbrances; and that this Mortgage is and will remain a valid and enforceable first lien on the Property subject only to the exceptions referred to herein; and that Mortgagor has full power and lawful authority to mortgage the Property as herein provided. Mortgagor forever shall preserve, warrant and defend such title to Mortgagee, and forever shall preserve, warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever, The Board of Directors of Mortgagor has duly authorized the execution and delivery of this Mortgage and the Note, and there is no provision in the certificate of incorporation or bylaws of Mortgagor requiring that its shareholders consent to such action.

1.03. Mortgagor, at Mortgagor's sole cost and expense, shall do, execute, acknowledge and deliver all and every such further acts, deeds, mortgages, assignment, transfers and assurances as Mortgagee from time to time shall require, for the better assuring, mortgaging, assigning, transferring and confirming unto Mortgagee the property and rights hereby mortgaged, assigned, transferred or intended now or hereafter to be mortgaged, assigned or transferred, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage. All right, title and interest of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutions and replacements of, and all additions and appurtenances to, the Premises, now owned by, hereafter acquired by, or released to Mortgagor, or constructed, assembled or placed by Mortgagor on the Premises, and all conversions of the security of this Mortgage, immediately upon such acquisition, release, construction, assembling, placement or conversion, without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Mortgagor and specifically described in the granting clause hereof. Mortgagor, on demand, shall execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as Mortgagee may require for the purpose of expressly and specifically subjecting the same to the lien of this Mortgage. Mortgagor, upon the execution and delivery of this Mortgage, and thereafter on demand, at Mortgagor's sole cost and expense shall cause this Mortgage and any security instrument creating or evidencing a lien upon the Chattels or any other property to be secured hereby, and any other instrument of further assurance or instrument supplemental hereto or given in connection herewith, to be filed, registered or recorded in such manner and in such place or places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of Mortgagee in, the Property. On demand Mortgagor shall execute and deliver, and Mortgagor hereby authorizes Mortgagee, and irrevocably appoints Mortgagee as its attorney-in-fact, to execute and deliver in the name of and on behalf of Mortgagor, to the extent permitted by applicable law, one or more financial statements, chattel mortgages or comparable security instruments to evidence more effectively the lien hereof upon the Chattels.

1.04. Mortgagor shall keep the Property free from statutory liens of every kind or nature, and shall pay and discharge when due all taxes of every kind or nature, general and special assessments, levies, permits, inspection and license fees, water and sewer rents and charges, and other governmental or public charges, fines and impositions, whether of a like or different nature, which are or may be levied or imposed upon, or assessed against, the Property or any part thereof,

or upon the revenues, income, rents, issues and profits of the Property or arising in respect of the occupancy, use or possession thereof. Mortgagor, upon the request of Mortgagee, shall deliver to Mortgagee receipts evidencing the payment of all such taxes, assessments, levies, fees, rents, charges, fines and impositions. For purposes of this Mortgage, assessments which have been made payable in installments at the application of Mortgagor nevertheless shall be deemed due and payable in their entirety on the earlier of the day the first installment becomes due or payable or a lien. Notwithstanding anything herein to the contrary, any direct acts or omissions solely of Mortgagee while in occupancy of the Property shall not serve as basis for Mortgagor default hereunder or under paragraphs 1.07, 1.09 and 1.10 hereof.

1.05. Mortgagor shall pay all filing, registration or recording fees; all Federal, State, county and municipal taxes, duties, imposts, assessments and charges; and all expenses incident to the execution, acknowledgment, delivery and recording of this Mortgage, any instrument of further assurance and any other instrument supplemental hereto or to be given in connection herewith. Mortgagor shall pay any and all taxes, charges, excises and levies imposed on Mortgagee by reason of the ownership or holding of this Mortgage or the Note, and shall pay all taxes required to be paid on this Mortgage or the Note. If Mortgagor fails to make any such payment within ten (10) days after demand, Mortgagee in addition to its other rights and remedies, may pay the amount due, and Mortgagor on demand shall reimburse Mortgagee for said amount, together with interest thereon at the Involuntary Rate from the date of such advance to the date of reimbursement. The amount so advanced by Mortgagee and such interest shall be a part of the indebtedness secured by this Mortgage. In the event of the passage of any law deducting from the value of the Premises, for purposes of taxation, the amount of any lien thereon or changing in any way the laws for the taxation of Mortgages or debts secured by Mortgages or the manner of the collection of any such taxes, so as to effect this Mortgage; then the indebtedness secured hereby, at the option of Mortgagee and upon thirty (30) days notice to Mortgagor, immediately shall become due and payable, provided, however, that said option shall be unavailing and the Note and this Mortgage shall remain in effect if, without violating such law or any applicable usury or other law, Mortgagor lawfully pays when due such taxes, including any interest or penalties thereon, to or for Mortgagee.

1.06. Mortgagor shall pay, from time to time when due, all lawful claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in, or permit the creation of, a lien on the Property or any part thereof, or on the revenues, income, rents, issues and profits arising therefrom, Mortgagor shall do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of Mortgagor, without expense to Mortgagee.

1.07. Mortgagor shall not be required to pay the obligations imposed upon Mortgagor by Sections 1.04, 1.05 or 1.06 hereof so long as Mortgagor, in good faith and at its own expense, shall contest the validity or amount of such obligation by appropriate legal proceedings, provided such proceedings shall prevent the collection thereof or other realization thereon and shall not result in the sale or forfeiture of the Property or any part thereof to satisfy the same. During any such contest Mortgagor, at the option of Mortgagee, shall provide security satisfactory to Mortgagee assuring the discharge of Mortgagor's obligations hereunder and of any additional charge, penalty or expense arising from or incurred as a result of such contest. If at any time the payment of any obligation imposed upon Mortgagor under Section 1.04 shall become necessary to prevent the

delivery of a tax deed conveying the Premises or any portion thereof because of non-payment, then Mortgagor shall pay such obligation in sufficient time to prevent the delivery of such tax deed.

1.08. Mortgagor shall keep the Improvements and Chattels insured for the benefit of Mortgagee against loss by fire, casualty and such other hazards as may be reasonably specified by Mortgagee. All insurance to be maintained by Mortgagor hereunder shall be written in forms, amounts and by companies reasonably satisfactory to Mortgagee, naming Mortgagee as insured. Mortgagor shall pay when due all premiums for such insurance. The policy or policies of such insurance, and renewals thereof, shall be delivered to Mortgagee, and shall have attached thereto a standard non-contributing mortgagee endorsement in favor of and entitling Mortgagee to collect any and all proceeds payable under all such insurance, as well as a standard waiver of subrogation endorsement, and shall contain provisions for ten (10) days notice to Mortgagee prior to any cancellation thereof, all in form and substance reasonably satisfactory to Mortgagee. Mortgagor shall reimburse Mortgagee on demand for any premiums for insurance paid by Mortgagee, together with interest at the Involuntary Rate, on Mortgagor's default in maintaining any insurance required hereunder or in delivering the insurance policies to Mortgagee as provided herein. Mortgagor shall give Mortgagee prompt notice of any loss covered by such insurance. Any moneys received as payment for any loss under any such insurance shall be paid over to Mortgagee to be applied by mortgagee in payment of reasonable and necessary expenses incurred by Mortgagor in the restoration of the Improvements. Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder, unless such insurance names Mortgagee as insured, with any and all proceeds payable to Mortgagee under a standard mortgage endorsement of the character above described. Mortgagor promptly shall deliver to Mortgagee the policy or policies of such insurance.

1.09. Mortgagor shall not commit, suffer or permit any waste on or to the Property. Mortgagor at all times shall maintain the Improvements in good operating order and condition, and promptly shall make all repairs, renewals, replacements, additions and improvements in connection therewith which are necessary or desirable to such end. The Improvements shall not be removed, demolished or altered without the prior written consent of Mortgagee in each instance (which will not be unreasonably withheld or delayed) unless replaced with an improvement of greater or equal value. None of the Chattels shall be removed without the prior written consent of Mortgagee in each instance (which will not be unreasonably withheld or delayed), except where appropriate replacements free of superior title, liens, claims and encumbrances are immediately made having a value at least equal to the value of the Chattels removed. Mortgagor shall not make any change in the use of the Property which will in any way increase the risk of damage to the Property by fire or other hazard.

1.10. Mortgagor shall not permit the release, storage, spilling or deposit on the Premises of any hazardous substance, and shall not permit the use of the Premises in violation of any applicable environmental law. As used herein, a hazardous substance shall mean any substance listed as hazardous or toxic in the regulations implementing the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq., or other applicable environmental law, rule or regulation.

1.11. All awards and compensation payable to Mortgagor as a result of any condemnation or other taking, or of any purchase in lieu thereof, of all or any portion of the Premises, are hereby assigned to and shall be paid to Mortgagee. Mortgagor hereby authorizes Mortgagee to collect and receive such awards and compensation, to give proper receipts and acquittances therefor, and to apply the same to the indebtedness evidenced by the Note, notwithstanding that such indebtedness may not then be due and payable. If any portion of such awards or compensation shall be applied to reduce the indebtedness evidenced by the Note, the same shall be applied to the then unpaid installments of principal under the Note in the inverse order of their maturity, so that the regular payments under the Note shall not be reduced or altered in any manner. Mortgagee shall be under no obligation to question the amount of any such award or compensation, and may accept the same in the amount in which the same shall be paid. Mortgagor, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation or taking of the Premises or any portion thereof, shall notify Mortgagee of the pendency of such proceedings. Mortgagee may participate in any such proceedings and Mortgagor from time to time shall deliver to Mortgagee all instruments requested by Mortgagee to permit such participation. Mortgagor, upon request by Mortgagee, shall execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid awards and compensation to Mortgagee free and clear of all liens, claims or encumbrances. Mortgagee shall not be limited to the interest paid on any award or compensation, but shall be entitled to the payment of interest by Mortgagor at the applicable rate provided in the Note and herein.

1.12. Mortgagor, without the prior written consent of Mortgagee in each instance, shall not in any manner impair the value of the Property or the security of this Mortgage. Mortgagor shall at all times promptly and faithfully pay and perform, or cause to be paid and performed, all of the terms, covenants and conditions contained in all leases of the Premises now or hereafter existing, on the part of the lessor thereunder to be paid or performed, and shall at all times do all things necessary to compel the payment and performance by the lessee under each lease of all of the terms, covenants and conditions by such lessee to be paid or performed thereunder. To the extent not so provided by applicable law, each lease of the Premises, or any part thereof, shall provide that, in the event of the enforcement by Mortgagee of the remedies provided by law or by this Mortgage, the lessee thereunder, upon request of Mortgagee or any person succeeding to the interest of Mortgagee as a result of such endorsement, automatically will become the lessee of said successor in interest, without change in the provisions of such lease; provided, however, that Mortgagee and said successor in interest shall not be bound by (a) any payment of rent or additional rent for more than one (1) month in advance, except pre-payments in the nature of security for the performance by said lessee of its obligations under said lease or (b) any amendment or modification of the lease made without the prior written consent of Mortgagee or such successor in interest. Each lease also shall provide that, upon request by Mortgagor or said successor in interest, such lessee shall execute and deliver an instrument or instruments confirming such attornment, Mortgagee shall be entitled to the benefits of Section 291-f of the Real Property Law of the State of New York in connection with this Mortgage.

1.13. Mortgagor shall pay all costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection with the enforcement of this Mortgage or the Note, the curing of any default by Mortgagor thereunder, or the defense or asserting of any rights, remedies or claims of Mortgagee in respect thereof, by litigation or otherwise. If any action or proceeding is

commenced to which Mortgagee is made a party or in which, in the judgment of Mortgagee, it is necessary to defend the lien of this Mortgage or to protect the Property, Mortgagee may appear in such action or proceeding, in the name of Mortgagor or otherwise. Mortgagor shall pay to Mortgagee on demand all costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection with any such action or proceeding, and such costs and expenses shall be a part of the indebtedness secured by this Mortgage.

1.14. If Mortgagor shall fail to pay or perform any term, covenant or condition of this Mortgage beyond the lapse of applicable notice and grace periods, Mortgagee may make advances to pay or perform the same on behalf of Mortgagor. All sums so advanced shall be paid by Mortgagor to Mortgagee on demand with interest from the date of such advance at the Involuntary Rate, and shall be a lien upon the Property secured by this Mortgage. If any payment due hereunder or under the Note is not paid when due, then Mortgagor shall pay on demand interest thereon at the Involuntary Rate from the date the payment was due until paid, whether or not any action has been taken or proceeding commenced to recover the amount due or to foreclose this Mortgage. In addition, Mortgagor shall pay a late payment premium of five percent (5%) of any principal or interest payment made more than ten (10) days after the due date thereof, which premium shall be paid with such late payment. All unpaid and accrued interest and said late payment premium shall be a part of the indebtedness secured hereby. The provisions of this Section shall not prevent any default in the payment, observance or performance of any term, covenant or condition of this Mortgage from constituting an Event of Default, and shall not be deemed to extend or otherwise modify or amend the date when any payments are due hereunder,

1.15. Mortgagor, within fifteen (15) days after request therefor by Mortgagee, shall furnish a written statement, certified and duly acknowledged by Mortgagor, setting forth the amount due on this Mortgage, the terms of payment and the maturity date of the Note, the date to which interest has been paid, and whether any offsets or defenses exist against any of the indebtedness secured hereby. If any offset or defense is alleged to exist, the nature thereof shall be set forth in detail in said statement.

ARTICLE II

Events of Default and Remedies

2.01. The whole of the principal indebtedness evidenced by the Note and all accrued but unpaid interest immediately shall become due and payable, at the option of Mortgagee or the legal representatives, successors or assigns of Mortgagee, upon the happening of any one or more of the following Events of Default:

(a) If default shall be made in the payment of any principal or interest to be paid under the Note, within ten (10) days of the date the same shall become due and payable, or if default shall be made, and shall have continued for a period of ten (10) days, in the payment of any other amount due under the Note or this Mortgage, when and as the same shall become due and payable as in the Note or this Mortgage provided; or

(b) If default shall be made in the due observance or performance of any term, covenant or condition on the part of Mortgagor contained in Sections 1.02, 1.03, 1.04, 1.05, 1.06 or 1.08 of this Mortgage, and such default shall have continued for a period of ten (10) days after written notice thereof shall have been given by Mortgagee to Mortgagor; or

(c) If default shall be made in the due payment, observance or performance of any other term, covenant or condition on the part of Mortgagor in the Note or in this Mortgage contained, and such default shall have continued for a period of thirty (30) days after written notice thereof shall have been given by Mortgagee to Mortgagor (provided that such cure period will be extended for a reasonable period while Mortgagor is diligently and effectively prosecuting a proper cure which was promptly commenced after such written notice, or if any representation made by Mortgagor in this Mortgage shall be incorrect; or

(d) If Mortgagor shall file or consents to the filing of a petition in bankruptcy, or commences or consents to the commencement of any proceeding pursuant to the Federal Bankruptcy Act or any similar Federal or State law, now or hereafter in effect, relating to the reorganization of Mortgagor or the arrangement or readjustment of the debts of Mortgagor; or if a petition in bankruptcy, insolvency proceeding or petition for reorganization shall be filed against Mortgagor and is not withdrawn or dismissed within sixty (60) days; or if, by decree of a court of competent jurisdiction, Mortgagor shall be adjudicated a bankrupt or be declared insolvent, or a petition for the reorganization of Mortgagor is granted; or if Mortgagor shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or if Mortgagor shall consent to the appointment of a receiver, liquidator or trustee of Mortgagor or of all or any part of Mortgagor's property; or if, by the order of a court of competent jurisdiction, a receiver, liquidator or trustee of the Property or any part thereof, or of Mortgagor or any of Mortgagor's a property, shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or if there is an attachment or sequestration of any of the property of Mortgagor and the same is not discharged or bonded in full within twenty (20) days.

2.02. Upon the occurrence of any such Event of Default, Mortgagee, personally or by its agents, employees, nominees or attorneys, at the expense of Mortgagor may: (a) enter into and upon the Property, and each and every part thereof, and may dispossess and exclude Mortgagor and its agents and servants therefrom; (b) use, operate, manage, control, insure, maintain restore and otherwise deal with the Property and conduct the business thereat; (c) make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as Mortgagee may deem advisable; and (d) exercise all rights and powers of Mortgagor with respect to the Property, including without limitation the right to enter into, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Premises, in the name of Mortgagor or otherwise.

2.03. Upon the occurrence of any such Event of Default, Mortgagee shall be entitled to collect and receive all earnings, revenues, income, rents, issues and profits of the Property and every part thereof. After deducting the costs and expenses of conducting the operations and business at the Property, and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements, and amounts necessary to pay for taxes, assessments, insurance and

any other proper charges upon the Property or any part thereof, and just and reasonable compensation for the services of Mortgagee and for all agents, nominees, attorneys and other employees by it properly engaged and employed; then Mortgagee shall apply the moneys arising as aforesaid, first, to the payment of the principal of the Note and the interest thereon, when and as the same shall become payable and, second, to the payment of any other sums required to be paid by Mortgagor under this Mortgage or the Note.

2.04. Upon the occurrence of any such Event of Default, Mortgagee, with or without entry, personally or by the agents, employees, nominees or attorneys of Mortgagee, may:

(a) sell the Property, and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, as one (1) parcel or in parcels, pursuant to the procedures provided by law, at one or more sale or sales, at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or

(b) institute proceedings for the complete or partial foreclosure of this Mortgage;
or

(c) take such steps to protect and enforce its rights whether by suit, action or proceeding in equity or at law for the specific performance of any term, covenant or condition in the Note or in this Mortgage, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect.

2.05. Mortgagor, for itself and all who may claim under it, hereby waives, to the extent that it lawfully may, all right to have the Property marshaled upon any foreclosure hereof, and waives trial by jury. Notwithstanding the appointment of any receiver, liquidator or trustee of Mortgagor, or of any of its property, or of the Property or any part thereof, Mortgagee shall be entitled to retain possession and control of all Property now or hereafter held under this Mortgage. During the continuance of any Event of Default and pending the exercise by Mortgagee of the right to exclude Mortgagor from any and all part of the Property, Mortgagor agrees to pay the fair and reasonable rental value for the use and occupancy of the Property or any portion thereof which are in its possession for such period and, upon default of any such payment, shall vacate and surrender possession of the Property to Mortgagee or to a receiver, if any, and in default thereof may be evicted by any summary action or proceeding for the recovery or possession of Premises for nonpayment of rent, however designated.

2.06. Upon the completion of any sale or sales made by Mortgagee under or by virtue of this Article II, Mortgagee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Mortgagor hereby irrevocably appoints Mortgagee the true and lawful attorney of Mortgagor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Property and rights so sold. Mortgagee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power. Mortgagor hereby ratifies and confirms all that its said attorney or such substitute or

substitutes shall lawfully do by virtue hereof. Nevertheless, Mortgagor, if so requested by Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to Mortgagee or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Mortgagee, for the purpose as may be designated in such request. Any such sale or sales made under or by virtue of this Article II, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons claiming through or under Mortgagor. Mortgagee may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement, at the time and place appointed for such sale, of the new time and place of the adjourned sale or sales, Except as otherwise provided by any applicable provision of law, Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

2.07. The purchase money, proceeds or avails of any sale made under or by virtue of this Article II, together with any other sums which then may be held by Mortgagee under this Mortgage, whether under the provisions of this Article II or otherwise, shall be applied as follows:

First, to the payment of the costs and expenses of such sale, including reasonable compensation to Mortgagee, and the agents and counsel of Mortgagee, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Mortgagee under this Mortgage, together with interest thereon at the Involuntary Rate, and all taxes or assessments, other than those subject to which the Property shall have been sold.

Second, to the payment of the whole amount then due, owing or unpaid upon the Note for principal or interest, with interest on the unpaid principal at the Involuntary Rate from and after the happening of any Event of Default.

Third, to the payment of any other sums required to be paid by Mortgagor pursuant to any provisions of this Mortgage or of the Note, including all expenses, liabilities and advances made or incurred by Mortgagee under this Mortgage or in connection with the enforcement thereof, together with interest thereon at the Involuntary Rate.

Fourth, to the payment of the surplus, if any, to whosoever may be lawfully entitled to receive the same.

2.08. Upon any sale made under or by virtue of this Article II whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Property or any part thereof. In lieu of paying cash for the Property, Mortgagee may make settlement for the purchase price for the Property by crediting the indebtedness secured by this Mortgage against the net purchase price, after deducting therefrom the expenses of the sale and the costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. In the event of any such sale, the entire principal of, and interest on, the Note, if not previously due and payable, and all other sums

required to be paid by Mortgagor pursuant to this Mortgage, immediately shall become due and payable. Upon the occurrence of any Event of Default, Mortgagor shall pay to Mortgagee interest at the Involuntary Rate on the then unpaid principal of the Note, and all other sums required to be paid by Mortgagor pursuant to any provisions of this Mortgage, and such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to Mortgagee, and the agents and counsel of Mortgagee, and any other costs or expenses incurred by Mortgagee hereunder.

2.09. No right or remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other rights or remedies. All rights and remedies of Mortgagee shall be cumulative, may be exercised singly or concurrently, and shall be in addition to every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee to exercise any right or remedy under this Mortgage shall impair any such right or remedy or shall be construed to be a waiver of any Event of Default or any acquiescence therein. Every right, remedy and power given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee. No waiver by Mortgagee shall be effective unless in writing and then only to the extent specifically stated. Without limiting the generality of the foregoing, any payment by Mortgagee for insurance premiums, real estate taxes, assessments, water charges or sewer rents or other charges affecting the Premises, or payments made in connection with any lien superior to the lien of this Mortgage, shall not constitute a waiver of any default by Mortgagor in making such payments and shall not obligate Mortgagee to make any such payments thereafter. No waiver of any right or remedy hereunder shall be deemed to be a waiver of such right or remedy as to any subsequent default hereunder.

2.10. Mortgagor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or extension or moratorium law, or any exemption from execution or sale of the Property or any part thereof, any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof, wherever enacted and whether now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage. Mortgagor, after any such sale or sales, shall not claim or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof. Mortgagor hereby expressly waives, to the extent permitted by law, all benefit or advantage of any and all such law or laws. Mortgagor covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, and agrees to suffer and permit the execution of every power and right herein or by law provided to Mortgagee as though no such law or laws had been made or enacted.

ARTICLE III

Miscellaneous

3.01. This Mortgage shall be construed in accordance with the laws of the State of New York. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law. This Mortgage shall be construed so as to afford to Mortgagee rights in addition to and not exclusive of the rights conferred by Sections 254, 271 and 272 of the Real Property Law of the State of New York or any other applicable law. In the event any one or more of the provisions of this Mortgage or in the Note shall for any reason be held to be

invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability, at the option of Mortgagee, shall not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein to the extent of such invalidity, illegality or unenforceability. No provision of this Mortgage or the Note shall require or be construed as requiring the payment of, or permit the collection of, interest in excess of the maximum amount permitted by applicable law. Mortgagor shall not be obligated to pay any interest in excess of such maximum amount. Mortgagor acknowledges that it has received a true copy of the Note and this Mortgage.

3.02. All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when delivered by hand or sent by postage paid, United States Postal Service Certified or Express Mail or by reputable overnight courier service, each with return receipt requested, to any party hereto at its address above stated. Any party hereto may change the address to which notices are to be mailed by notice given in accordance with this Section 3. 02.

3.03. This Mortgage cannot be modified or discharged orally and no agreement shall be effective to modify or discharge this Mortgage in whole or in part unless it is in writing and signed by the party against which enforcement of the modification or discharge is sought.

3.04. All of the terms, covenants and conditions of this Mortgage shall run with the land and shall apply to, bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

3.05. Mortgagee agrees that if the mortgage debt is refinanced Mortgagee will cooperate with a new mortgagee in assigning the mortgage to be created hereby to such new mortgagee, provided that this Mortgage continues to secure a bona fide obligation and further provided that Mortgagor pays Mortgagee's reasonable attorneys' fees and expenses and charges incurred by Mortgagee in connection with, or related to, such assignment.

IN WITNESS WHEREOF, this Mortgage has been duly executed by Mortgagor as of the date first above written.

67 SYLVESTER STREET HOLDINGS, LLC.

By: _____
Thomas Marasco, Member

STATE OF NEW YORK)
COUNTY OF NASSAU) :ss.:

On the 23rd day of October in the year 2003 before me, the undersigned, a notary public in and for said State, personally appeared THOMAS MARASCO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

420789

SCHEDULE A

ALL that certain plot, piece or parcel of land, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State of New York, known and designed as Lots 13 through 15, inclusive and Lots 69 through 72, inclusive, in Block 76 on a certain map entitled, "2nd Map of the City of New Cassel, Queens County, Long Island, New York, surveyed August 1891 by William Hauxhurst, Surveyor", and filed in the Office of the Clerk of the County of Nassau under File No. 3, Case No. 14, which said lots, according to said map are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Kinkel Street distant 200.00 feet southerly from the corner formed by the intersection of the easterly side of Kinkel Street and the southerly side of Main Street;

RUNNING THENCE easterly at right angles to the easterly side of Kinkel Street, 100.00 feet;

RUNNING THENCE southerly parallel with the easterly side of Kinkel Street, 25.00 feet;

RUNNING THENCE easterly again at right angles to the easterly side of Kinkel Street, 100.00 feet to the westerly side of Sylvester Street;

RUNNING THENCE southerly along the westerly side Sylvester Street, 100.00 feet;

RUNNING THENCE westerly again at right angles to the easterly side of Kinkel Street, 100.00 feet;

RUNNING THENCE northerly parallel with the easterly side of Kinkel Street, 50.00 feet;

RUNNING THENCE westerly again at right angles to the easterly side of Kinkel Street, 100.00 feet to the said easterly side of Kinkel Street;

RUNNING THENCE northerly along the easterly side of Kinkel Street, 75.00 feet to the point or place of BEGINNING.

Exhibit D

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X
GCC LAND DEVELOPMENT CORP.,

Plaintiff,

REFEREE'S REPORT

Index No. 00-013468

-against-

DERMKRAFT, P.C., DERMKRAFT, INC., THE
STATE OF NEW YORK, NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION and JOHN P. CAHILL,
COMMISSIONER OF THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, and JOHN KRAFCHUCK,

Defendant.

-----X
STATE OF NEW YORK
COUNTY OF NASSAU

~~SALVATORE A. LECCL, ESQ.~~ an attorney duly admitted to practice law in the courts
of the State of New York affirms as follows:

1. By Judgment of Foreclosure and Sale dated September 3, 2002 of the Hon. Ute Wolf Lally I was appointed as the Referee for the sale of the premises known as 62 Kinkel Street, Westbury, New York 11590. (See Exhibit "A")
2. On August 12, 2003, the property was put up for sale and sold back to Plaintiff, GCC Land Development Corp. (See Exhibit "B") for the sum of \$400,000.00.
3. On October 23, 2003 Plaintiff as Assignor, assigned its rights to title to the subject property to 67 Sylvester Street Holdings, LLC (See Exhibit "C")

4. On October 23, 2003, closing took place at the office of Meyer, Suozzi, English and Klein, 1505 Kellum Place, Mineola, N.Y.

5. At the closing, the successful bidder the Plaintiff - paid in excess of the \$400,000.00, to itself, as follows:

(a) \$260,187.29 plus interest from March 6, 2002 representing payment of the judgment.

(b) \$58,292.00 interest from March 6, 2002 to September 24, 2003.

(c) \$106,156.88 Real Estate Taxes (See Exhibit "D")

TOTAL PAID: \$424,636.41

6. There were no surplus funds.

Sworn to before me
this 31st day of October 2003


SALVATORE A. LECCI, ESQ.
Referee

At IAS Part 16, of the Supreme Court, held in and
for the County of Nassau at the Courthouse located
at 100 Supreme Court Drive, Mineola, New York
on the 2nd day of ~~June~~ September 2002

PRESENT: Hon. Ute Wolf Lally,
J.S.C.

GCC LAND DEVELOPMENT CORP.,

Plaintiff,

Index No. 00-013468

-against-

JUDGMENT OF
FORECLOSURE AND SALE

DERMKRAFT, P.C., DERMKRAFT, INC., THE
STATE OF NEW YORK, NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION and JOHN P. CAHILL,
COMMISSIONER OF THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, and JOHN KRAFCHUCK,

Defendants.
_____X

Upon the summons and complaint on file in this action; on the affidavits of service and notices of appearance filed herein; on the supplemental summons and amended complaint, served pursuant to the Court's Order dated February 5, 2002 (the "Substitution Order"), which among other things (i) substituted GCC Land Development Corp. ("GCC") as plaintiff in this action, (ii) added Dermkraft, P.C. as a party defendant, (iii) granted leave to plaintiff GCC to serve a supplemental summons and amended complaint upon Dermkraft, P.C. and (iv) provided that upon default by Dermkraft, P.C. in answering or otherwise moving, Dermkraft, P.C. would be bound by all of the terms and conditions set forth in the summons and complaint, notice of pendency, order of reference as if it were a party to this action at the inception of this case; on the supplemental affidavit of regularity of Michael J. Healy, Esq., and affidavit of attorneys' fees of Michael J. Healy, both sworn to on May 20, 2002; and on the Mortgage and Note annexed

Exhibit "A"

thereto, from all of which it appears that this action is brought to foreclose a mortgage on real property situated in Nassau County, New York; that the whole amount secured by said mortgage is due and payable; that each and all of the necessary defendants have been duly served with the summons and complaint, the supplemental summons and amended complaint or have appeared herein; that the time to answer has expired as to each and all of the defendants, including defendant Dermkraft, P.C., and that none of the defendants, including defendant Dermkraft, P.C., has answered the verified complaint or the amended verified complaint or moved to dismiss it, and none of them has appeared in this action, except defendants STATE OF NEW YORK, NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION and JOHN CAHILL, COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, which have appeared and demanded service of all papers and notices of all proceedings; that none of the defendants is an infant or in the military service of the United States, or an absentee; that a notice of the pendency of this action, and an amended notice of pendency containing correctly and truly all of the particulars required by law to be stated in such notice were filed in the Office of the Nassau County Clerk on August 23, 2000 and on May 6, 2002, respectively, and plaintiff, having moved for an order of reference, and on the order of this Court, bearing date December 11, 2000, entered in the Office of the Nassau County Clerk on February 20, 2001, referring this matter to Salvatore Lecci, Esq., as referee, to take proof of the facts and circumstances stated in the complaint, to examine the plaintiff or its officers or attorneys on oath as to payments, ascertain and compute the amount due the plaintiff for principal and interest on the note and mortgage, and for taxes and premiums of fire insurance, and other expenses of preserving the mortgaged premises and lien of mortgage, and to examine and report whether the mortgaged premises can be sold in parcels, and upon the report of said referee, dated

March 12, 2001, filed in the Office of the Nassau County Clerk on March 15, 2001, from which it appears that there is due to the plaintiff for principal and interest on the note and mortgage set forth in the complaint, at the date of said report, the sum of \$260,187.29, with interest from the date of said report, and that the mortgaged premises cannot be sold in parcels; and it appearing that notice of this application was given to all the appearing defendants, and there being no opposition to this application,

Now, on motion of Farrell Fritz, P.C., attorneys for the plaintiff, it is

ORDERED, ADJUDGED and DECREED, that the motion is granted in all respects, and it is further

ORDERED, ADJUDGED and DECREED, that plaintiff is granted judgment of foreclosure and sale against defendants; and it is further

ORDERED, ADJUDGED and DECREED, that the Report of Salvatore Locci, Esq., Referee, dated March 12, 2001 be and hereby is in all respects ratified and confirmed; and it is further

ORDERED, ADJUDGED AND DECREED, that the plaintiff have judgment herein for the sum of \$260,187.29 together with interest thereon ^{FROM 6TH} after March 12, 2002 through entry of judgment at 9.625% per annum or \$61.36 per diem, as provided in the mortgage and referee's report and at the statutory rate thereafter as provided by law, together with the sum of ^{CTY. \$1354.97} as taxed by the Clerk of the Court and hereby adjudged to the plaintiff for costs and disbursements in this action, with interest thereon from the date hereof, together with an additional allowance of \$300.00 ^{OF ENTRY} hereby awarded to plaintiff in addition to the costs and disbursements, with interest thereon from the date hereof, and it is further ^{OF ENTRY}

ORDERED, ADJUDGED AND DECREED, that the plaintiff's demand for an award of legal fees and disbursements as provided for in the mortgage sued upon is granted in the amount

ATTYS' FEES of \$ 7,500.00 in accordance with the affidavit of Michael J. Healy, Esq. sworn to May 20, 2002; and it is further

ORDERED, ADJUDGED AND DECREED, that the mortgaged premises described in the verified complaint, as hereinafter described, be sold in one parcel; subject to any zoning restrictions and any amendments thereto, according to law and now in force; subject to any state of facts an accurate survey may show; subject to covenants, restrictions, agreements, reservations and easements of record, if any, and municipal departmental violations, if any; subject to existing occupancies or tenancies, if any, except as otherwise provided herein; subject to its "as is" condition, and any sale to be held hereunder will be subject to the rights of the United States of America to redeem, if any; and it is further

WVL
Jesse
ORDERED, ADJUDGED AND DECREED, that the mortgaged premises described in the verified complaint be sold in one parcel at public auction, as provided by law, on the steps of the north front steps of the Nassau County Courthouse, 262 Old Country Road, Mineola, County of Nassau, State of New York, by and under the direction of Salvatore Locci, Esq., who is hereby appointed referee for that purpose; that said referee give public notice of the time and place of said sale according to law and the practice of this Court in the

WESTBURY TIMES newspaper, and that the plaintiff or any other party to this action may become the purchaser at such sale; that in the event the plaintiff shall become the purchaser at said sale, it shall not be required to make any deposit thereon; that said referee be authorized and directed to have paid to him any applicable transfer gains taxes and recording charges from the purchaser or purchasers thereof; that said referee execute to the

SCHEDULE A

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State of New York, known and designated as Lots 13 to 15 inclusive and Lots 69 to 72 inclusive in Block 76 on a certain map entitled, "2nd Map of the City of New Cassel, Queens County, Long Island, New York, surveyed August 1891 by William Hauxhurst, Surveyor" and filed in the Office of the Clerk of the County of Nassau, under file #3, case #14, which said lots, according to said map are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Kinkel Street distant 200 feet southerly from the corner formed by the intersection of the easterly side of Kinkel Street and the southerly side of Main Street;

RUNNING THENCE easterly at right angles to the easterly side of Kinkel Street, 100 feet;

THENCE southerly parallel with the easterly side of Kinkel Street, 25 feet;

THENCE easterly again at right angles to the easterly side of Kinkel Street, 100 feet to the westerly side of Sylvester Street;

~~THENCE southerly along the westerly side of Sylvester Street, 100 feet;~~

THENCE westerly again at right angles to the easterly side of Kinkel Street, 100 feet;

THENCE northerly parallel with the easterly side of Kinkel Street, 50 feet;

THENCE westerly again at right angles to the easterly side of Kinkel Street, 100 feet to the said easterly side of Kinkel Street; and

THENCE northerly along the easterly side of Kinkel Street, 75 feet to the point or place of BEGINNING.

purchaser or purchasers at such sale a deed of the premises sold; that the referee on receiving the proceeds of the sale shall forthwith pay therefrom the taxes, assessments, water rates or sewer rents which are or may become liens on the premises with such interest or penalties which may lawfully have accrued thereon to the day of payment; that the referee then deposit the balance of the proceeds from the sale in his own name as referee in

FLEET BANK, MINEOLA and shall thereafter make the following payments and his checks drawn for that purpose shall be paid by the said depository:

1. The statutory fees of said referee, in the sum of \$500.
2. The expenses of the sale as shown on bills and the advertising expenses presented by the referee, which shall be filed with his report of sale.

CTV. 3. Upon plaintiff's Bill of Costs, appended as Exhibit B, the sum of \$1354.97 to
CLF. plaintiff or its attorneys, adjudged to the plaintiff for its costs and disbursements in this action, to
be taxed by the Clerk and inserted herein, with interest thereon from the date ^{OF ENTRY} hereof, together
with an additional allowance of \$ 300.00 and attorney's fees in the amount of

ATTS. FEES 7500.00 hereby awarded to the plaintiff in addition to costs, ~~with interest thereon from~~
~~the date hereof~~, and also the sum of \$260,187.29, the amount reported as aforesaid, together with
interest thereon from March ^{6 TH} 12, 2001 through entry of judgment at 9.625% per annum or \$61.36
per diem, as provided in the mortgage and at the statutory rate thereafter, as provided by law; and
such advances as the plaintiff shall have made for all expenses in preserving or protecting the
UPON PRODUCTION OF RECEIPTS FOR SUCH EXPENDITURES,
mortgaged premises and lien of mortgage, from the date of said report, and the actual expenses of
sale as defined by Section 1354(2) of the Real Property Actions and Proceedings Law, or so
much thereof as the said purchase money will pay of the same.

That in case the plaintiff be the purchaser of said mortgaged premises at said sale, or in the event that the rights of the purchaser, or its assignee, at said sale and the terms of sale under this judgment shall be assigned to and be acquired by the plaintiff, and a valid assignment thereof filed with said referee, said referee shall not require the plaintiff to pay in cash the entire amount bid at said sale, but shall execute and deliver to the plaintiff a deed or deeds of the premises sold upon the payment to said referee of the amounts specified above in items marked "1" and "2" and the amounts of the aforesaid taxes, assessment and water rents and interest or penalties thereon, or in lieu of the payment of the said last mentioned amounts, upon filing with said referee receipts of the proper municipal authorities showing the payment thereof; or an affidavit by plaintiff setting forth that payment has been made; provided, however, plaintiff shall not be required to pay said taxes, assessments and water rents unless same are due and payable on the date of sale, or any adjourned date thereof, irrespective of the date upon which same have become or may be a lien upon the said premises; that the balance of the amount bid after deducting therefrom the aforesaid amounts paid by the plaintiff for referee's fees, and advertising expenses, shall be allowed to the plaintiff and applied by the referee upon the amounts due to the plaintiff as specified above in items marked "3;" that if, after so applying the balance of the amount bid, there shall be a surplus over and above the said amounts due to the plaintiff, the plaintiff shall pay to the referee upon delivery to it of the said referee's deed, the amount of such surplus; that the referee on receiving said surplus amounts from the plaintiff shall forthwith pay therefrom said taxes, assessments, water rates, sewer rents, and interest or penalties thereon, unless the same shall have already been paid, and shall deposit the balance in said depository as hereinabove directed.

That the referee shall pay the expenses of maintaining and for the preservation of the Mortgaged Premises, as well as any expenses incurred in security whether made before or after the entry of this judgment, not previously included in any computation, upon presentation to the referee of the proper receipts.

That the referee take the receipt of the plaintiff or its attorneys for the amounts paid as hereinbefore directed, in item marked "3." and file it with his report of sale; that he deposit the surplus monies, if any, with the Treasurer of Nassau County ^{WITHIN FIVE DAYS} after the same shall be received and be ascertainable, to the credit of this action, to be withdrawn only on the Order of this Court, signed by a Justice thereof; that the referee shall make a report of such sale and file it with the Clerk of the Court ^{WITHIN THIRTY (30) DAYS OF COMPLETING THE SALE AND} ~~with all convenient speed~~ after executing the proper conveyance to the purchaser; that if the proceeds of such sale be insufficient to pay the amount so reported due to the plaintiff with the expenses of the sale, interest, costs and allowances, as aforesaid, the referee shall specify the amount of such deficiency in his report of sale; and it is further

WJ
F. B.
~~ORDERED, ADJUDGED AND DECREED~~ that the purchaser or purchasers at said sale be let into possession on production of the referee's deed or deeds; and it is further

ORDERED, ADJUDGED and DECREED, that each and all of the defendants and all persons by, through or claiming under them, or any of them, after the filing of the notice of pendency of action be and they are hereby forever barred and foreclosed of all right, claim, lien, title, interest and equity of redemption in the said mortgaged premises, and each and every part thereof (a description of the said mortgaged premises is set forth in Schedule "A" hereto); and it is further

ORDERED, ADJUDGED AND DECREED, that the plaintiff The Roslyn Savings Bank ^{MAY} recover of the defendants DERMKRAFT, P.C., successor by merger to DERMKRAFT, INC., _^

and JOHN KRAFCHUCK the whole deficiency or so much thereof as the Court may determine to be just and equitable of the residue of the mortgage debt remaining unsatisfied, after a sale of the mortgaged premises and the application of the proceeds thereof; provided a motion for a deficiency judgment shall be made as prescribed by Section 1371 of the Real Property Actions and Proceedings Law, within the applicable time limits prescribed therein, and the amount thereof determined and awarded by order of this Court; and it is further

ORDERED, that in the event title does not pass in the foreclosure action, the referee is awarded a non-refundable processing fee of \$250.00; and it is further

ORDERED, that the referee appointed herein shall be served with a signed copy of the Judgment of Foreclosure and Sale with notice of entry.

CB
AS TO
FORM

ENTER,

Utholz

J.S.C.

FFDOC61473870.2

ENTERED

SEP 05 2003

NASSAU COUNTY
COUNTY CLERK'S OFFICE

TO THE CLERK OF NASSAU COUNTY:

Pursuant to the provisions of Rule 2222 of the Civil Practice Laws and Rules, the Clerk of Nassau County is hereby requested to docket the foregoing judgment affecting an interest in real property in favor of plaintiff GCC LAND DEVELOPMENT CORP., 59 New York Avenue, Westbury, New York 11590 and against DERMKRAFT, P.C. successor by merger to DERMKRAFT, INC., a domestic corporation with place of business at 158 Hilton Avenue, Hempstead, New York 11550.

FARRELL FRITZ, P.C.,
Attorneys for Plaintiff
EAB Plaza - West Tower - 14th Floor
Uniondale, New York 11556
(516) 227-0700

PFDOCS1473870.2



T 156—Bill of Costs (with CPLR annex) Blank Court 1-95

COPYRIGHT 1983 BY JAMES B. LAMBERT, INC.
PUBLISHER, NYC 10013SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

GOC LAND DEVELOPMENT CORP.,

INDEX NO. 00-013486

Plaintiff(s)

Costs of PLAINTIFF

DERMKRAFT, P.C., ^{against} DERMKRAFT, INC., THE STATE OF NEW YORK
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
and JOHN P. CAHILL, COMMISSIONER OF THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION, and
~~JOHN KRAFCHECK,~~ Defendant(s)

COSTS	Costs before note of issue	200 00
	CPLR §8201 subd. 1	
	Costs after note of issue	
	CPLR §8201 subd. 2	
	Trial of issue	
	CPLR §8201 subd. 3	
	Allowance by statute	200 00
	CPLR §8302(a), (b)	
	Additional allowance	50 00
	CPLR §8302 (d)	
	Motion costs	
	CPLR §8202	
	Appeal to Appellate Term	
	CPLR §8203 (b)	
	Appeal to Appellate Division	
	CPLR §8203 (a)	
	Appeal to Court of Appeals	
	CPLR §8204	
	Costs upon frivolous claims and counterclaims	
	CPLR §8303-a	

DISBURSEMENTS	Fee for index number CPLR §8018(a)	170 00
	Referee's fees CPLR §8301(a)(1), 8303(a)	50 00
	Commissioner's compensation CPLR §8301(a)(2)	36 00
	Clerk's fee, filing notice of pend. or attach. CPLR §8021(a)(10)	30 00
	Entering and docketing judgment CPLR §8301(a)(7), 8016(a)(2)	
	Paid for searches CPLR §8301(a)(10)	500 00
	Affidavits & acknowledgments CPLR §8009	
	Serving copy summons & complaint CPLR §8011(h)(1), 8301(d)	123 97
	Request for judicial intervention	75 00
	Note of issue CPLR §8020(a)	
	Paid referee's report CPLR §8301(a)(12)	
	Certified copies of papers CPLR §8301(a)(4)	
	Satisfaction piece CPLR §5020(a), 8021	
	Transcripts and filing CPLR §8021	
	Certified copy of judgment CPLR §8021	
	Postage CPLR §8301(a)(12)	
	Jury fee CPLR §8020(c)	
	Stenography's fees CPLR §8002, 8301	
	Sheriff's fees on execution CPLR §8011, 8012	
	Sheriff's fees, attachment, arrest, etc. CPLR §8011	
	Paid printing cases CPLR §8301(a)(6)	
	Clerk's fees Court of Appeals CPLR §8301(a)(12)	
	Paid copies of papers CPLR §8016(a)(4)	
	Motion expenses CPLR §8301(b)	
	Fees for publication CPLR §8301(a)(3)	
	Serving subpoena CPLR §8011(h)(1), 8301(d)	
	Paid for Search CPLR §8301(a)(10)	
	Referee's report	
	Attendance of witnesses CPLR §8001(a)(b)(c), 8301(a)(1)	

Costs ~~5th~~ day of September 2002
Adjusted At \$1354.97
Kass v. Nassau County
Clerk, Nassau County

Costs 400 00
\$ 550 00
954 97
DISBURSEMENTS 1,710 97

The undersigned, an attorney admitted to practice in the courts of this state, affirms: that I am counsel to Farrell Fritz, P.C.

the attorney(s) of record for the Plaintiff in the above entitled action; that the foregoing disbursements have been or will necessarily be made or incurred in this action and are reasonable in amount and that each of the persons named as witnesses attended as such witness on the trial, hearing or examination before trial herein the number of days set opposite their names; that each of said persons resided the number of miles set opposite their names from the place of said trial, hearing or examination; and each of said persons, as such witness as aforesaid, necessarily traveled the number of miles so set opposite their names in traveling to, and the same distance in returning from, the same place of trial, hearing or examination; and that copies of documents or papers as charged herein were actually and necessarily obtained for use.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

The same signed and sworn to before me at
MICHAEL J. HEAVY

Index No. 00-013486

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

000 LAND DEVELOPMENT CORP.,

Plaintiff(s)

DEIRACRAFT, P.C., DEFENDANT, INC., THE
STATE OF NEW YORK, NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
and JOHN P. CAHILL, COMMISSIONER OF THE
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, JOAN KRAFCHOUS/Defendant(s)

Bill of Costs and Notice of Taxation

Please Take Notice that the within is a true copy of the items of costs and disbursements in the within action taxed and that the same will be taxed by the Clerk of

Court, at his/her office in the courthouse thereof on

at 9:30 A.M.

of that day—and the amount is set in the judgment

Yours, etc.

Farrell Fritz, P.C.

Attorney(s) for Plaintiff

To

Attorney(s) for

Service of the within bill of costs and notice of taxation is hereby admitted on

Attorney(s) for

A 5/10/00 and over (1000 P 88 100 P 88 100)

State of New York, County of

ss:

being duly sworn, deposes and says: that deponent is not a party to the action, is over 18 years of age and resides at

That on

deponent served the within bill of costs and notice of taxation on

attorney(s) for
herein, at his/her office at

during his/her absence from said office

and was delivered to (s) or (it)

(a) by then and there leaving a true copy of the same with

his/her clerk, partner, person having charge of said office.

(b) and said office being closed, by depositing a true copy of same, enclosed in a sealed wrapper directed to said attorney(s), in the office letter drop or box.

Sworn to before me on

State of New York, County of

ss:

being duly sworn, deposes and says: that deponent is not a party to the action, is over 18 years of age and resides at

That on

deponent served the within bill of costs and notice of taxation on

attorney(s) for
at

the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in a post office—official depository under the exclusive care and custody of the United States Postal Service within New York State.

Sworn to before me on

**Supreme Court of the State of New York
County of Nassau**

GCC LAND DEVELOPMENT CORP.,

Plaintiff,

- against -

DERMKRAFT, P.C., DERMKRAFT, INC., THE
STATE OF NEW YORK, NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION and JOHN P. CAHILL,
COMMISSIONER OF THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, and JOHN KRAFCHUCK,

Defendants.

Index No.
00-013468

TERMS OF SALE

The premises described in the annexed advertisement of sale, will be sold under the direction of the undersigned Referee, pursuant to the judgment of foreclosure and sale and upon the following terms:

1. Ten (10%) *per centum* of the purchase money of said premises will be required to be paid in cash or certified check to the undersigned Referee at the time and place of sale, and for which the Referee's receipt will be given.

Exhibit "B"

2. The balance of the purchase money will be required to be paid in cash or certified check to the Referee at his office at Suite 201, 330 Old Country Road, Mineola, NY 11501-4122, on August 19, 2003, at 11:00 a.m., at which time and place the Referee's deed will be ready for delivery to the purchaser.

3. The Referee is not required to send any notice to the purchaser. If the purchaser neglects to appear at the time and place above specified to pay the balance of the purchase and to receive the Referee's deed, the purchaser will be charged with interest thereafter on the whole amount of the purchase price, unless the Referee shall deem it proper to extend the time for the completion of the purchase.

~~4. All taxes, assessments, water rates and other encumbrances which, at the time~~
of sale, are liens or encumbrances upon the premises, will be paid by the Referee or will be allowed by the Referee out of the purchase money, provided the purchaser shall previous to the Referee's delivery of the deed, produce to the Referee proof of such liens, and duplicate receipts for the payment thereof.

5. The purchaser of the premises, or of any portion thereof, will, at the time and place of sale, sign a memorandum of the purchase, and an agreement to comply with the foregoing terms and conditions of sale.

6. The bidding will be kept open after the property is struck down; and in case any purchaser shall fail to comply with any of the foregoing terms and conditions of sale, the premises so struck down to the purchaser will be again put up for sale under the direction of the Referee under these same terms of sale, without application to the Court, unless the plaintiff's attorneys shall elect to make such application; and such purchaser will be held liable for any deficiency there may be between the sum for which said premises shall have been struck down upon the sale, and that for which they may be purchased on the resale, and also for any costs or expenses occurring on such re-sale.

Dated: August 12, 2003.

SALVATORE A. LECCI, Referee
Suite 201

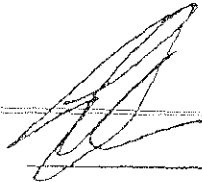
330 Old Country Road
Mineola, NY 11501-4122
(516) 877-0200

MEMORANDUM OF SALE

The undersigned has this 12th day of August, 2003, purchased the premises described in the annexed printed advertisement of sale, for the sum of
FOUR HUNDRED THOUSAND (\$400,000⁰⁰) Dollars,
and hereby promises and agrees to comply with the terms and conditions of the sale of the premises as above set forth.

Dated: August 12, 2003.

Purchaser's signature:



Purchaser's name (printed):

Purchaser's address:

Purchaser's phone number:

EUGENE COOK pres,
GCC LAND DEVELOPMENT CORP
89 NEW YORK AVE
WESTBURY NY (516) 997 2895

REFEREE'S RECEIPT FOR PURCHASER'S DOWN PAYMENT

Received from _____ purchaser,
the sum of (\$ _____) Dollars,
being ten per centum of the amount bid by the purchaser for property sold by me, under the
judgment in the above entitled action.

Dated: August 12, 2003.



ASSIGNMENT AND ASSUMPTION OF BID RIGHTS

ASSIGNMENT AND ASSUMPTION OF BID RIGHTS made as of October 23, 2003 by and between GCC LAND DEVELOPMENT CORP., with offices at 59 New York Avenue, Westbury, New York 11590 ("Assignor"), and 67 SYLVESTER STREET HOLDINGS, LLC, with offices at 792 Carmen Avenue, Westbury, New York 11590 ("Assignee").

W I T N E S S E T H:

WHEREAS, Assignor is the holder of Bid Rights as the highest bidder at a public auction sale under a judgement in an action between GCC Development Corp., Plaintiff, v. Dermkraft, P.c., Dermkraft, Inc., the State of New York, New York State Department of Environmental Conservation and John P. Cahill, Commissioner of the New York State Department of Environmental Conservation, and John Krafchuck, Defendants, Index No. 00-13468 in the Supreme Court of the State of New York in Nassau County foreclosing a certain mortgage dated April 28, 1986, recorded May 8, 1986 in Liber 11508 at Page 366 in the office of the Nassau County Clerk in pursuance of a Judgement of Foreclosure and Sale entered at IAS Part 16 of the Supreme Court of the State of New York, County of Nassau on September 5, 2002, filed in the Nassau County Clerk's Office on September 5, 2002, covering certain premises described in Schedule A annexed hereto and located at 62 Kinkel Street, Westbury, New York 11590 ("Premises");

Exhibit "C"

WHEREAS, Assignor desires to transfer, assign and set over unto Assignee and Assignee desires to acquire, all of Assignor's right, title and interest in, to and under said bid rights;

NOW, THEREFORE, in consideration of the premises, the mutual covenants herein contained, the sum of Two Hundred and Fifty Thousand (\$250,000.00) Dollars and other good and valuable consideration to each paid by the other, the receipt of which is hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignor hereby transfers, assigns and sets over unto Assignee all of Assignor's right, title and interest in, to and under said bid rights.

2. Assignee hereby assumes and agrees to perform and observe, from and after the date hereof, all of the agreements, provisions, conditions and limitations on the part of the Assignor in regard to said bid and public auction sale to be performed or observed from and after the date hereof.

3. Assignee hereby agrees that Assignee will well and truly indemnify and save harmless Assignor from all manner of suit, claims, actions, damages, charges and expense, including without limitation, attorneys' fees, arising from or relating to said bid and public auction sale from and after the date hereof or by reason of Assignee's breach from and after the date hereof of any of the

obligations or conditions of said bid and public auction sale to be performed or observed by Assignee from and after the date hereof.

4. This Assignment and Assumption of Bid Rights shall inure to the benefit of, and be binding upon, Assignor and Assignee and their respective successors and assigns.

5. This Assignment and Assumption of Bid Rights shall be governed by and construed in accordance with the laws of the State of New York and shall not be amended or modified except by a writing executed by the parties to be bound thereby.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Lease Assignment and Assumption as of the day and year first above written.

GCC LAND DEVELOPMENT CORP.

By: 

67 SYLVESTER STREET HOLDINGS, LLC.

By: 

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

On the 2nd day of October in the year 2003 before me the undersigned, a Notary Public in and for said State, personally appeared, EUGENE COOK, of GCC LAND DEVELOPMENT CORP., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.


NOTARY PUBLIC

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

On the 23rd day of October in the year 2003 before me the undersigned, a Notary Public in and for said States, personally appeared, THOMAS MARASCO of 67 SYLVESTER STREET HOLDINGS, LLC, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.



NOTARY PUBLIC

Notary Public

DIANE MELIA
Notary Public, State Of New York
No. 01ME4646632
Qualified In Queens County
Commission Expires Feb. 28, 20 06

Schedule A

ALL that certain plot, piece or parcel of land, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State of New York, known and designed as Lots 13 through 15, inclusive and Lots 69 through 72, inclusive, in Block 76 on a certain map entitled, "2nd Map of the City of New Cassel, Queens County, Long Island, New York, surveyed August 1891 by William Hauxhurst, Surveyor", and filed in the Office of the Clerk of the County of Nassau under File No. 3, Case No. 14, which said lots, according to said map are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Kinkel Street distant 200.00 feet southerly from the corner formed by the intersection of the easterly side of Kinkel Street and the southerly side of Main Street;

RUNNING THENCE easterly at right angles to the easterly side of Kinkel Street, 100.00 feet;

RUNNING THENCE southerly parallel with the easterly side of Kinkel Street, 25.00 feet;

RUNNING THENCE easterly again at right angles to the easterly side of Kinkel Street, 100.00 feet to the westerly side of Sylvester Street;

RUNNING THENCE southerly along the westerly side Sylvester Street, 100.00 feet;

~~RUNNING THENCE westerly again at right angles to the easterly side of Kinkel Street, 100.00 feet;~~

RUNNING THENCE northerly parallel with the easterly side of Kinkel Street, 50.00 feet;

RUNNING THENCE westerly again at right angles to the easterly side of Kinkel Street, 100.00 feet to the said easterly side of Kinkel Street;

RUNNING THENCE northerly along the easterly side of Kinkel Street, 75.00 feet to the point or place of BEGINNING.



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248
TAX LIEN REDEMPTION BILL

PAGE: 1

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

IN: NORTH HEMPSTEAD
DIST: 1
TION: 11
CK: 076
(S): 69-72

1997
TAX LIEN PURCHASER: WACHOVIA COLLATE/NASSAU COUNTY
EXAMINED BY: MERRILEE
DATE: 09/23/03
CERTIFICATE NUMBER: 920/2001
SALE DATE: 02/19/2002

REPT #:	TAX SOLD	LIEN AMOUNT	INTEREST RATE	LIEN INTEREST	AFFIDAVIT FEE
015786-001	00-01 2H 2001 2H	11,018.99	10.00%	4,407.60	.00

PAID: 9/23/2003 SUBSEQUENT TAXES ADDED
TAX YEAR AMOUNT DATE INTEREST LISTING FEE

AMOUNT PAID: \$15,426.59

APUTED TO: 9/23/2003

TOTAL AMT TOTAL INTEREST TOTAL FEES
11,018.99 4,407.60 .00

BY: GGC LAND DEVELOPMENT CORP
59 NEW YORK AVE
WESTBURY NY 11590

TOTAL PAYMENT DUE: PAID

CASH: CERT CHK: Y

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

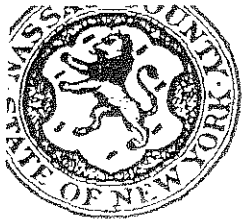
1 11 076 69-72

920/2001

\$15,426.59

G J S INC
72 SYLVESTER
WESTBURY NY 11590-491

Exhibit "N"



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

BILL OF LUMP SUM TAXES
AND REDEMPTION

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

IN: NORTH HUNTERDON
DIST. 1
TION: 11
CK: 076
IS: 18-15

11501

EXAMINED BY: MERRILL

DATE: 09/29/2003

REPT #	TAX YEAR	BASE TAX	EXPENSE PAID	INT. PEN	TOTAL
03-5725-001	02-03 F	9,416.75	75.00	1,868.87	10,854.05

PAID: 9/29/2003

AMOUNT PAID: \$10,854.05

APPLIED TO: 9/29/2003

PAID BY:
BOC LAND DEVELOPMENT CORP
55 NEW YORK AVE
WESTBURY, NY 11590

TOTAL PAYMENT DUE: \$0.00

***PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

11 076 18-15

02-03 F

\$10,854.05

WESTBURY, NY 11590
AT MINEOLA
WESTBURY, NY 11570-491



240 OLD COUNTRY ROAD

MINEOLA, NEW YORK 11501-4248

BILL OF ARREARS FOR TAXES
AND ASSESSMENTS

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

N. NORTH HEMPSTEAD
DIST. 1
ION: 11
CK: 076
S): 13-15

1997

EXAMINED BY: MERRILEE

DATE: 09/23/03

PIPT #:	TAX YEAR	BASE TAX	EXPENSE SALE	INT/PEN	TOTAL
	2003 F	5,769.74	75.00	640.44	6,485.18

E PAID:

UNT PAID:

INPUTED TO: 9/30/2003

BY: DERMKRAFT, INC
62 SYLVESTER
WESTBURY NY

TOTAL PAYMENT DUE: \$6,485.18

11590-491

CASH: CERT CHK: SUBJ TO COLL:

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

1 11 076 13-15

2003 F

\$6,485.18

DERMKRAFT, INC
62 SYLVESTER
WESTBURY NY 11590-491



240 OLD COUNTRY ROAD

MINEOLA, NEW YORK 11501-4248

BILL OF ARREARS FOR TAXES
AND ASSESSMENTS

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

VN: NORTH HEMPSTEAD
T. DIST. 1
SECTION: 11
BLOCK: 076
(S): 69-72

1997

EXAMINED BY: MERRILEE

DATE: 09/23/03

REIPT #:

TAX YEAR	BASE TAX	EXPENSE SALE	INT/FEN	TOTAL
2003 F	5,796.58	75.00	633.43	6,415.01

PAID:

AMOUNT PAID:

APPLIED TO: 9/30/2003

PAID BY:

G J S INC
72 SYLVESTER
WESTBURY NY

TOTAL PAYMENT DUE: \$6,415.01

11590 -491

CASH: CERT CHK: SUBJ TO COLL:

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

1 11 076 69-72

2003 F

\$6,415.01

G J S INC
72 SYLVESTER
WESTBURY NY 11590-491



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

BILL OF ARREARS FOR TAXES
AND ASSESSMENTS

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

TN: NORTH HEMPSTEAD
DIST. 1
TION: 11
CK: 076
SJ: 69-72

1997

EXAMINED BY: DANA

DATE: 09/23/03

PIPT #:	015805-101	TAX YEAR	BASE TAX	EXPENSE SALE	INT/PEN	TOTAL
		2003 F	5,706.88	75.00	632.43	6,415.01

PAID: 9/24/2003

AMT PAID: \$6,415.01

PUT TO: 9/30/2003

BY: BDC LAND DEVELOPMENT CORP.
59 NEW YORK AVE.
WESTBURY NY 11590

TOTAL PAYMENT DUE: PAID

CASH: CERT CHK: Y SURJ TO COLL:

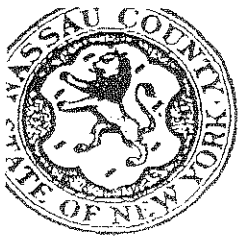
***PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

1 11 075 69-72

2003 F

\$6,415.01

BDC LAND DEVELOPMENT CORP.
59 NEW YORK AVE.
WESTBURY NY 11590



240 OLD COUNTRY ROAD

MINEOLA, NEW YORK 11501-4248

BILL OF SALES FOR TAXES
AND ASSESSMENTS

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

IN: 000-0-00000000	EXAMINED BY: 00000	DATE: 09/23/03
DIST. 11		
TION: 075		
CK: 12-15		
(S):		

PIPT #	TAX YEAR	BASE TAX	EXPENSE SALE	INT/REN	TOTAL
0000-000	2003 F	5,739.79	75.00	640.44	6,455.19

E PAID: 9/24/2003

OUNT PAID: \$6,455.19

APUTED TO: 9/30/2003

BY: 000 LAND DEVELOPMENT CORP
00 NEW YORK AVE
WESTBURY NY 11590

TOTAL PAYMENT DUE: PAID

CASH: CERT CHQ: Y SUBS TO COLL:

***PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

0 01 075 12-15

2003 F

\$6,455.19

000 LAND DEVELOPMENT CORP
00 NEW YORK AVE
WESTBURY NY 11590



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

TAX LIEN PURCHASE

PAGE: 1

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

WN: 1 H. DIST: 10 CTION: 1018 JACK: 69-72 T(S): 69-72	TAX LIEN PURCHASE CERTIFICATE NUMBER: 920-18001 SALE DATE: 02/15/2004	EXAMINED BY: [Signature] DATE: 09/23/2002
---	---	--

CEIPT #:	TAX SALE	LIEN AMOUNT	INTEREST RATE	LIEN INTEREST	APPROXIMATE FEES
920-18001	11,018.99	11,018.99	10.00%	4,402.50	

TE PAID: 9/23/2002 SUBSEQUENT TAXES ADDED
TAX YEAR AMOUNT DATE INTEREST LISTING F.

OUNT PAID: \$15,421.49

MPUTED TO: 9/23/2002
TOTAL TAX 11,018.99 TOTAL INTEREST 4,402.50 TOTAL FEES

ID BY: 600 LAND DEVELOPMENT CORP
62 NEW YORK AVE
WESTBURY NY 11590
TOTAL PAYMENT DUE: \$15,421.49

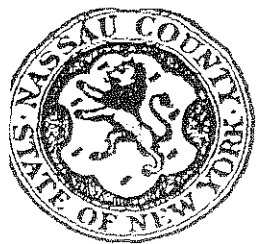
*PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

7-11-076 69-72

920-18001

\$15,421.49

G. J. E. INC.
72 EYFESION
WESTBURY NY 11590-491



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

TAX ITEM # 2001-0000000000000000

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

OWN:	DATE:	EXAMINED BY:	DATE:
CH. DIST.	TAX YEAR:	EXAMINED BY:	DATE:
SECTION:	DEED/STATE NUMBER:	EXAMINED BY:	DATE:
LOCK:	944-2002	EXAMINED BY:	DATE:
DT(S):		EXAMINED BY:	DATE:

RECEIPT #:	DATE:	AMOUNT:	INTEREST:	TAX:	FEES:
944-2002	9/23/2002	10,685.32	1,058.56		

DATE PAID: 9/23/2002
 TAX YEAR: 2002
 AMOUNT: 10,685.32
 INTEREST: 1,058.56
 FEES: 0.00
 TOTAL: 11,743.88

COMPUTED TO: 9/23/2002
 TOTAL: 11,743.88
 TOTAL INTEREST: 1,058.56
 TOTAL FEES: 0.00

AID BY: SEC LAND DEVELOPMENT CORP
 20 NEW YORK AVE
 WESTBURY NY 11591
 TOTAL PAYMENT DUE: 11,743.88

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

944-2002 944-2002 944-2002

S. J. S. INC
 20 NEW YORK AVE
 WESTBURY NY 11591-4248



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

PAGE: 1

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

TAX LIEN REDEMPTION BILL

PROPERTY DESCRIPTION:

OWN. ADDRESS: 13-15	EXAMINED BY: K. S. R. L. S. E.	DATE: 09/23/2003
H. DIST. 13-15	TAX LIEN PURCHASER: WACHOVIA MORTGAGE INVESTMENT COMPANY	
CTION: 13-15	CERTIFICATE NUMBER: 5167302965	
OCK: 07A		
T(S): 13-15		SALE DATE: 09/29/2003

CEIPT #:	13-15-000	TAX SOLD	LIEN AMOUNT	INTEREST RATE	LIEN INTEREST	PAYMENT
00-01 27		11,099.47	10.00%	4,629.25		
0001 24						

TE PAID: 9/23/2003 SUBSEQUENT TAXES ADDED
TAX YEAR 2003 DATE 9/23/2003 INTEREST 4,629.25 LISTING FEE

OUNT PAID: \$15,728.72

MPUTED TO: 9/23/2003

D BY: SDC LAND DEVELOPMENT CORP
89 NEW YORK AVE
WESTBURY, NY 11590
TOTAL PAYMENT DUE: \$15,728.72

***PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

13-15 13-15 9/23/2003 \$15,728.72

DERMRAFT, INC
12 BY VICTOR
WESTBURY, NY 11590-4248



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

PAGE: 1

TAX LIEN REDEMPTION BILL

Tel. (516) 571-3711

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

OWN: NORTH HEMPSTEAD
CH. DIST. 1
SECTION: 11
LOCK: 075
LOT(S): 18-15

EXAMINED BY: MEREDITH DATE: 09/28/03
TAX LIEN PURCHASER: WACHOVIA BANK NY/NASSAU COUNTY
CERTIFICATE NUMBER: 945/2002
SALE DATE: 02/19/200

RECEIPT #	TAX SOLD	LIEN AMOUNT	INTEREST RATE	LIEN INTEREST	AFFIDAVIT FEE
015755-033	01-02 F 2002 F	16,649.14	10.00%	2,329.93	10

DATE PAID: 9/23/2003 SUBSEQUENT TAXES ADDED
TAX YEAR AMOUNT DATE INTEREST LISTING FEE

AMOUNT PAID: \$19,979.07

COMPUTED TO: 9/23/2003

TOTAL AMT
16,649.14

TOTAL INTEREST
2,329.93

TOTAL FEE:
10

PAID BY:
GOC LAND DEVELOPMENT CORP
55 NEW YORK AVE
WESTBURY, NY 11590

TOTAL PAYMENT DUE: PAID

CASH: CERT CHK: Y

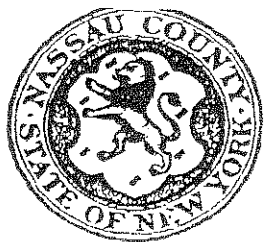
*PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

1 11 075 18-15

945/2002

\$19,979.07

DESKRAFT, INC
67 SYLVESTER
WESTBURY NY 11590-491



240 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501-4248

9311 (P) 9/23/2003 11:15 AM
MAY 10 2003 11:15 AM

Tel. (516) 571-3715

OFFICE HOURS
9:00 a.m. to 4:45 p.m.
MON. Thru FRI.

PROPERTY DESCRIPTION:

OWN: [illegible]
CH. DIST. [illegible]
SECTION: [illegible]
LOCK: [illegible]
LOT(S): [illegible]

EXAMINED BY: [illegible] DATE: [illegible]

RECEIPT #:	DATE	AMOUNT PAID	DATE PAID	AMOUNT PAID	TOTAL
11501-4248	9/23/2003	11,390.00	9/23/2003	11,390.00	11,390.00

DATE PAID: 9/23/2003

AMOUNT PAID: 11,390.00

COMPUTED TO: 9/23/2003

PAID BY: [illegible]
[illegible]
[illegible]

TOTAL PAYMENT DUE: 11,390.00

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION

BERNARD [illegible]
87 ELYSIA [illegible]
WESTBURY, NY 11590-4248

GCC LAND DEVELOPMENT CORP.
59 NEW YORK AVE
WESTBURY, NY 11590

GREENPOINT BANK
WESTBURY OFFICE 070
WESTBURY, NY 11590

5003

1-7055/2260
70

PAY TO THE
ORDER OF

Nassau County
Six thousand Dollars

CERTIFIED

PAYABLE ONLY IF UNALTERED
SINCE ISSUANCE AND IF
PROPERLY ENDORSED

GREENPOINT BANK
070 OLD COUNTRY ROAD
WESTBURY, NY 11590

AUTHORIZED SIGNATURE
NOT DETACHED

9/23/03

\$ 6485.18

DOLLARS

North Hempstead

SO: 1

MEMO Set: 11

Blue: 26

WT: 13-15

⑈005003⑈ ⑈226070555⑈67 39 70222 0⑈

GCC LAND DEVELOPMENT CORP.
59 NEW YORK AVE
WESTBURY, NY 11590

GREENPOINT BANK
WESTBURY OFFICE 070
WESTBURY, NY 11590

5004

1-7055/2260
70

PAY TO THE
ORDER OF

Nassau County
Six thousand Dollars

CERTIFIED

PAYABLE ONLY IF UNALTERED
SINCE ISSUANCE AND IF
PROPERLY ENDORSED

SEP 23 2003

GREENPOINT BANK
070 OLD COUNTRY ROAD
WESTBURY, NY 11590

AUTHORIZED SIGNATURE
NOT DETACHED

9/23/03

\$ 6415.01

DOLLARS

North Hempstead

SO: 1

Set: 11

MEMO Blue: 26

WT: 13-15

⑈005004⑈ ⑈226070555⑈67 39 70222 0⑈

GCC LAND DEVELOPMENT CO. P.
59 NEW YORK AVE
WESTBURY, NY 11590

GREENPOINT BANK
WESTBURY OFFICE 070
WESTBURY, NY 11590

5002

1-7055/2260
70

9/23/03

PAY TO THE
ORDER OF

Nassau County

\$ 46,882.81

Forty six thousand eight

8/100

DOLLARS

Town: North Hempstead

SO: 1

Sec: 11

Block: 76

LOT(S): 69-72

MEMO

⑈005002⑈ ⑆226070555⑆67 39 70222 0⑈

GCC LAND DEVELOPMENT CORP.
59 NEW YORK AVE
WESTBURY, NY 11590

GREENPOINT BANK
WESTBURY OFFICE 070
WESTBURY, NY 11590

5001

1-7055/2260
70

9/23/03

PAY TO THE
ORDER OF

Nassau County Tr

\$ 46,372.28

Forty six thousand three

28/100

DOLLARS

Town: North Hempstead

SO: 1

Sec: 11

Block: 76

LOT(S): 13-15

MEMO

⑈005001⑈ ⑆226070555⑆67 39 70222 0⑈

7-776 P.015/015 F-639

+5167392065

From-MEYER, SUOZZI, ENGLISH, KLEIN

Sep-24-2003 13:13

Index No.: 00-013468

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

GCC LAND DEVELOPMENT CORP.,

Plaintiff

-against-

DERMKRAFT, P.C., DERMKRAFT, INC., THE
STATE OF NEW YORK, NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION and JOHN P. CAHILL,
COMMISSIONER OF THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, and JOHN KRAFCHUCK,

Defendant.

REFEREE'S REPORT

SALVATORE A. LECCI, ESQ.

Attorney for Plaintiff

330 Old Country Road

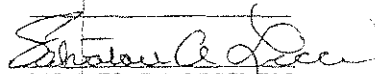
Mineola, New York 11501

T 516 877 0200 F 516 877 1748

Pursuant to 22 NYCRR 130-1.1 the undersigned, an attorney admitted to practice in the Courts of the State of New York, certified, that upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated:

Signature:


SALVATORE A. LECCI, ESQ.

To:

Attorney for

Service of a copy of the within is hereby admitted.

Dated:

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

NOTICE OF SETTLEMENT

That of which the within is a true copy will be presented for settlement to the Hon. Judge presiding, one of the judges of the within named Court, at a.m. on , 2002.

Yours, etc.

SALVATORE A. LECCI, ESQ.

Attorney for Plaintiff

330 Old Country Road, Suite 201

Mineola, N.Y. 11501

T 516 877 0200 F 516 877 1748

Exhibit E

COUNTY: Nassau STATE: New York TITLE NO.: N2304071

WHEREAS,

("The Company:") is about to issue a title insurance policy under the above title number ("The Policy") in respect to the property therein more fully described ("The Premises") and also known as:

62 KINKEL STREET, WESTBURY, NY

AND WHEREAS, "The Company" has raised exception(s) to the title ("The Exception(s)") as follows:

REQUIRE PROOF OF DUE PROCEEDINGS IN ACTION #00/13468, INCLUDING WITHOUT LIMITATION, PROOF OF POSTING AND PUBLICATION, FILING OR REFEREE'S REPORT OF SALE AND SERVICE OF ALL DEMANDED NOTICES.

See Referee's Report of Sale to be filed by Oct. 31, 2003.

AND WHEREAS, "The Company" has been requested to issue "The Policy" so that it would provide a form of insurance protecting insured against some or all effect of "The Exception(s)",

AND WHEREAS, "The Company" may hereafter in the ordinary course of its business also issue other title insurance policies, title certificates or commitments in respect to "The Premises" ("Future Policies"),

AND WHEREAS, "Future Policies" may also insure to the same effect as "The Policy",

NOW THEREFORE, "The Undersigned" in order to induce "The Company" to issue "The Policy" and "Future Policies" agrees with "The Company":

1) To fully protect, defend and save "The Company" harmless for all loss including cost, damage, attorney's fees and expenses of every kind and nature which it may incur by reason of the existence of "The Exception(s)".

2) That "The Company" shall have the sole discretion in the choice and designation of any attorney(s) that may be needed to defend or protect the interest of "The Company" and of the insured(s) or others who may become entitled to coverage under "The

Policy", all of whom are herein referred to as "The Insured". "The Company" may, in its sole judgment, decide whether such legal representation is required.

3) To pay, discharge, satisfy and remove "The Exception(s)" of record on or before the _____ day of _____.

In the event of the failure of "The Undersigned" to perform the foregoing obligation, "The Company" shall have the right at any time to pay, discharge, satisfy and remove "The Exception" from the record. "The Undersigned" agrees to pay "The Company" on demand all amount so advanced and paid together with all costs and expenses related thereto, up to \$1,000.00, and

~~REFEREE TO COOPERATE WITH COMPANY AT TRIAL~~

4) That should an Insured demand separate legal counsel in any lawsuit arising because of "The Exception(s)", "The Undersigned" agrees to pay the full cost and expense thereof upon the same terms set forth in Paragraph 1 and 2 above. That any billing of the attorneys so employed shall be paid by "The Undersigned" within ten (10) days of billing.

5) Any notice under Agreement shall be given in writing to the parties at the addresses set forth below.

If there is more than one Undersigned, all of the provisions of this Agreement are binding both jointly and severally upon each of them, their distributess, personal representatives, successors and assigns.

IN WITNESS WHEREOF, "The Undersigned" have duly signed this Agreement on the _____

23 day of OCT, 19 2003

[Signature] Referee

ADDRESS

ADDRESS

Undersigned"



STG ASSOCIATES INC.

46 CARNATION AVENUE • FLORAL PARK, NEW YORK 11001

(516) 488-8811
FAX (516) 488-8611

October 3, 2003

William J. Zaccaria & Associates
175 East Shore Road
Great Neck, NY 11023

RE: Title No. N2304071
Premises: 62 Kinkel Street
Westbury, NY
Owner: Salvatore Lecci, as referee
Purchaser: 67 Sylvester Street Holding LLC

Dear Counselor:

Kindly attach this letter and the enclosed Tax Searches to your copy of the above referenced title report and consider them a part thereof.

Very truly yours,

Frederic Nelson
Title Officer

FN/cl
encl.

Left Corridon

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435
 (718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

NASSAU COUNTY TAX SEARCH

DATE: 09/29/03

PREMISES: 62 KINKEL ST, WESTBURY

VILLAGE: NONE

TOWN: NORTH HEMPSTEAD

ASSESSED TO: *DERMKRAFT INC

ASSESSED VALUE: (CTY) 7150/13600

TAX CLASSIFICATION: 710.24

SCHOOL DISTRICT: WESTBURY 1

SECTION: 11

BLOCK: 076 LOT: 13-15

TOWN OF NORTH HEMPSTEAD REAL ESTATE TAX

GENERAL DUE: (T/C) JANUARY 1 AND JULY 1

PERIOD COVERED: JANUARY 1 TO DECEMBER 31

SCHOOL DUE: OCTOBER 1 AND APRIL 1

PERIOD COVERED: JULY 1 TO JUNE 30

SD: 001 SEC: 11 BLK: 076 LOT: 13-15

2002/2003 SCHOOL TAX, 1 1/2 \$ 4708.39 PAID
 2 1/2 \$ 4708.39 PAID

2003 GENERAL TAX, 1 1/2 \$ 2884.87 PAID
 2 1/2 \$ 2884.87 PAID

WATER - WESTBURY WATER DISTRICT

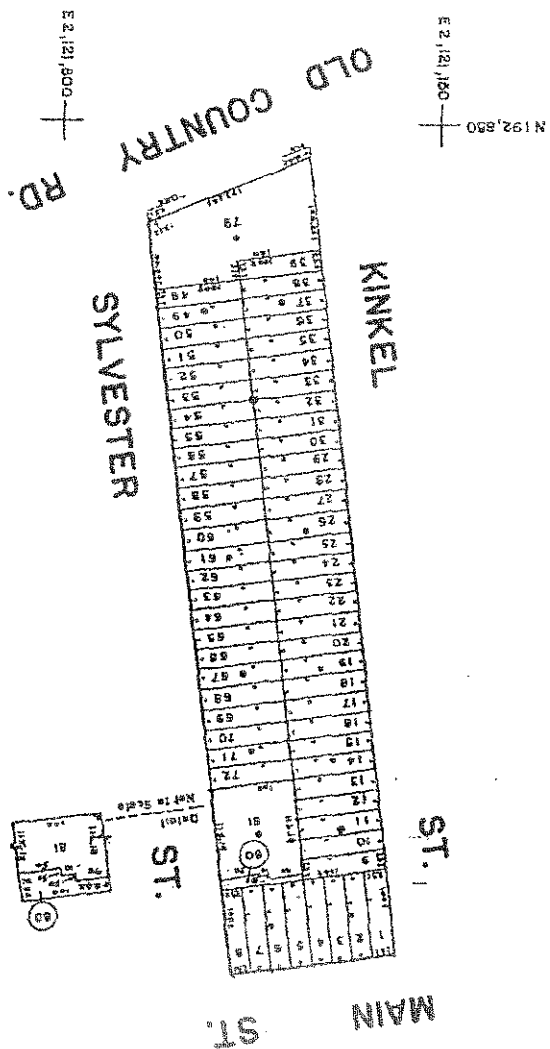
EXCEPT NO INFORMATION AVAILABLE

NOTE: UP-TO-DATE BILL OR RECEIPT MUST BE PRODUCED AT CLOSING.
 SUBJECT TO PRIOR WATER CHARGES NOT ENTERED AND SUBSEQUENT
 WATER CHARGES SINCE DATE OF LAST READING.

SUBJECT TO CONTINUATION PRIOR TO CLOSING.

AFFIDAVIT SHOULD BE TAKEN AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL
 ASSESSMENTS (I.E., SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). TAX
 SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SUCH NOTICES.

Search does not guarantee against items not a lien up to the date shown hereon. Search does not guarantee against pending assessments or against installments for assessments due after date shown hereon. Pensions (exemptions) if shown hereon are not applicable to School taxes unless said exemptions are Senior Citizen, Ministerial or paraplegic exemptions. Exempt Property Restored "Factors" (if any) shown above represent the difference between the actual tax shown and what the tax would have been had there been no exemption. Restored tax is figured on a pro-rata basis from date of deed to end of fiscal year of each tax so affected. Method of collection of restored tax is not uniform for all municipalities. Tax search does not guarantee against any claims resulting from levies of restored taxes. This search does not cover any part of streets on which the premises abut. Recent payments of any open items returned on this tax search may not yet be reflected on the public record. Therefore, request the seller or buyer to have the receipted bills available at the closing. The returns are guaranteed to School District, Section, Block and Lot. The search is prepared exclusively for S.T.G. ASSOCIATES. on 09/29/03.

[illegible]

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435
 (718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

NASSAU COUNTY TAX SEARCH

DATE: 09/29/03

PREMISES: 62 KINKEL STREET, WESTBURY

VILLAGE: NONE

TOWN: NORTH HEMPSTEAD

ASSESSED TO: *DERMKRAFT INC

ASSESSED VALUE: (CTY) 8300/13450

TAX CLASSIFICATION: 710.24

SCHOOL DISTRICT: WESTBURY 1

SECTION: 11

BLOCK: 076

LOT: 69-72

TOWN OF NORTH HEMPSTEAD REAL ESTATE TAX

GENERAL DUE: (T/C) JANUARY 1 AND JULY 1

PERIOD COVERED: JANUARY 1 TO DECEMBER 31

SCHOOL DUE: OCTOBER 1 AND APRIL 1

PERIOD COVERED: JULY 1 TO JUNE 30

SD: 001

SEC: 11

BLK: 076

LOT: 69-72

2002/2003 SCHOOL TAX, 1 1/2 \$ 4656.46 PAID
 2 1/2 \$ 4656.45 PAID

2003 GENERAL TAX, 1 1/2 \$ 2853.29 PAID
 2 1/2 \$ 2853.29 PAID

WATER - WESTBURY WATER DISTRICT

EXCEPT NO INFORMATION AVAILABLE

NOTE: UP-TO-DATE BILL OR RECEIPT MUST BE PRODUCED AT CLOSING.
 SUBJECT TO PRIOR WATER CHARGES NOT ENTERED AND SUBSEQUENT
 WATER CHARGES SINCE DATE OF LAST READING.

SUBJECT TO CONTINUATION PRIOR TO CLOSING.

AFFIDAVIT SHOULD BE TAKEN AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL
 ASSESSMENTS (I.E., SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). TAX
 SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SUCH NOTICES.

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0576-2304071B



5



BY PLANE TO COLUMBIAN SITTING

SYLVESTER

78
1911
"C" 50
OLD COUNTRY RD.
+
12,600

[illegible]

STG Associates, Inc.

Quality Title Services

46 Carnation Avenue * Floral Park, New York 11001

Paul Holmes * Margaret Dato * Richard Frey

www.stgassoc.com

(516) 488-8811

(718) 256-2447

(212) 447-0098

Fax: (516) 488-8611

Title No:

NASS 2304071

Application Date: 09/30/03

Report Date: 10/01/03

APPLICANT: M8660		LENDER'S ATTORNEY:	
WILLIAM J. ZACCARIA & ASSOCIATES 175 EAST SHORE ROAD GREAT NECK, NY 11023 Tel: (516) 487-1602 Fax: (516) 487-0552			
RECORD OWNER:		AMOUNT OF INSURANCE:	
DERMKRAFT, INC./ GCC LAND DEVELOPMENT CORP.		Fee and Leasehold \$650,000.00	
PURCHASER:		COMPANY CHARGES:	
67 SYLVESTER STREET HOLDING, LLC.		Premium Fee	3115.00
		Market Value Rider	312.00
		Waiver of Arbit.-Owner	25.00
		COURIER CHARGE	60.00
INSURED MORTGAGE:			
SURVEY INSTRUCTIONS:			
		Departmental Searches:	55.00
		C/O	
SELLER'S ATTORNEY: S1195		ESTIMATED RECORDING CHARGES:	
SUOZZI, MEYER & ENGLISH 1505 KELLUM PLACE MINEOLA, NY 11501 Att: JAMES ROCHFORD		Estimated tax based on Residential Property.	
		NY State Transfer Tax	2600.00
		Mortgage Tax - Lender	
		Mortgage Tax - Borrower	
		Real Property Tax (RPT)	
		Estimated Recording Fees	400.00
PREMISES:		EST. PRE-CLOSING TOTAL: 6567.00	
62 KINKEL STREET WESTBURY, NY County: NASSAU Distr: Sect: 11 Block: 76 Lot : 13-15 ALSO LOTS 69-72		Recording(s)	
SPECIAL INSTRUCTIONS:		TOTAL CHARGES:	
CC: BUYERS ATTY TANNENBAUM, HELPERN 900 3RD AVENUE NEW YORK, NY 10022 ATTN: NEIL BOTWINOFF		Purchaser: Cash	
		Checks	
		Seller: Cash	
		Checks	
Note: Estimated recording charges computation of tax due is based on Residential Property. Mortgage Tax rate is reduced by \$25 for a 1-2 family residence.			
Closed By: _____ Date: _____		Total Receipts	

Title No:

NASS 2304071



ISSUED BY
COMMONWEALTH LAND TITLE INSURANCE COMPANY

Commonwealth
A LANDAMERICA COMPANY

CERTIFICATE AND REPORT OF TITLE

TITLE NO. N2304071

This Company certifies that in consideration of the fees, due and payable upon the delivery of this certificate, it has examined title to the premises described in Schedule A herein, in accordance with its usual procedure and agrees to issue its standard 1992 ALTA Loan/Owner's policy (with New York Endorsement) insuring such interest and the marketability thereof, after the closing of the transaction in conformance with procedures approved by the Company, excepting all loss or damage by reason of the estates, interests, defects, objections, liens, encumbrances and other matters set forth in this certificate which are not disposed of to its satisfaction prior to such closing or issuance of the policy.

Such policy will be issued for the amount set forth herein, upon payment of the Company's fees and after the transaction has been duly closed and the closing instruments have been duly recorded and approved by the Company.

This certificate is subject to any question or objection as a result of a continuation of the title to the date of closing or which may be brought to the attention of the Company prior to the closing, or if there be no closing, before the issuance of the policy.

This certificate shall be null and void (1) if the Company's fees therefor are not paid (2) if the prospective insured, his attorney or agent, or the applicant or the person to whom this certificate is addressed, makes any untrue statement with respect to any material fact or suppresses or fails to disclose any material fact or if any untrue answers are given to material inquiries by or on behalf of the Company (3) in any event, upon the delivery of the policy. Any claim arising by reason of the issuance of this certificate shall be restricted to the terms and conditions of the standard form of insurance policy.

If title, interest or lien to be insured was acquired by the prospective insured prior to delivery of this certificate, the Company assumes no liability except under the policy when issued.

DATED: 6/27/03

Authorized Signature

Redated and Recertified:

Closer's Signature

If you have any questions regarding this report please communicate with FREDERIC NELSON
STG ASSOCIATES, INC. - (516) 488-8811 TITLE OFFICER

Title No. N-2304071

SCHEDULE A

Prepared for: WILLIAM J. ZACCARIA & ASSOCIATES
175 EAST SHORE ROAD
GREAT NECK, NY 11023

Report dated: 6/27/03

Premises: 62 KINKEL STREET, WESTBURY

County: NASSAU
Town/City: WESTBURY

District:
Section: 11
Block: 76
Lot: 13-15, 69-72

Policy or Policies to be issued:

☒ ALTA Owner's Policy 1992 (With N.Y. Endorsement Modifications)
\$ 650,000.00

Proposed Insured:
67 SYLVESTER STREET HOLDING, LLC.

☐ ALTA Loan Policy 1992 (With N.Y. Endorsement Modifications)

Proposed Insured:

Borrower:
None

The estate or interest in the land described or referred to in this Certificate and covered herein is:

FEE SIMPLE

The land referred to in this Commitment is described as follows:
(If not described herein, as on Schedule C).

Title to said estate or interest in said land at the effective date hereof is vested in:

SALVATORE LECCI, AS REFEREE appointed pursuant to Judgment of Foreclosure and Sale dated 9/3/02, entered 9/17/02 in Action #00/13468, GCC Land Development Corp. v. Dermkraft P.C., etal, to foreclose mortgage recorded in Liber 11508 mp 366.

Title No. N-2304071

SCHEDULE B

The policy will not insure against loss or damage (and the Company will not pay costs, attorney's fees or expenses) which arise by reason of the following exceptions unless they are disposed of to our satisfaction:

Disposition

- 01. Taxes, tax liens, tax sales, water rates, sewer rents and assessments set forth in schedule herein.
- 02. Mortgages returned herein (0). Detailed statement within.
- 03. Any state of facts which an accurate survey might show.
- 04. Rights of tenants or persons in possession.
- 05. Covenants, conditions, easements, leases, agreements of record, etc., more fully set forth in Schedule herein:-

NONE
- 06. Require proof of due proceedings in Action # 00/13468, including without limitation, proof of posting and publication, filing of referee's report of sale and service of all demanded notices.
- 07. Notice of Hazardous Waste Site filed 1/11/00 (#Z-51) by New York State Department of Environmental Conservation.
- 08. The exact courses, distances, dimensions and location of the premises described in Schedule C cannot be insured in the absence of a satisfactory survey guaranteed to this Company.

PLEASE NOTE: BANK OR CERTIFIED CHECKS ARE REQUIRED FOR ANY CHARGES IN EXCESS OF \$500.00.

(continued)

NOTE:

If the subject transaction is one involving a sale subject to the mortgage(s) returned in item number 2 above, and since many lenders now have the mortgage instrument state that the debt will become due and payable at the option of the mortgagee upon any transfer of title, it is recommended that the applicant examine the mortgage document(s) as well as the note(s) or bond(s) and any agreement modifying said mortgage(s), or make inquiry of the mortgagee of the current terms of such instruments especially with respect to acceleration of the maturity date in case of sale. Upon request, we will obtain and furnish a copy of the recorded mortgage(s) for cost.

Title No. N-2304071

SCHEDULE B (continued)

Disposition

NOTE: All instruments submitted for recording with the Nassau County Clerk must be executed in BLACK ink and must contain the following TYPED (not handwritten nor stamped) recital on the first page of the document "Premises known as Section 11 Block 76 Lot(s) 13-15, 69-72 as shown on the Nassau County Land and Tax Map."

NOTE: Chapter 44 of the Laws of 1984 (Insurance Law Section 438 effective April 3, 1984) requires that title insurance companies "offer", at or prior to title closing, an optional policy form which will insure the title of owner-occupied real property used predominantly for residential purposes which consists of not more than four dwelling units for an amount equal to the market value of the property at the time a loss is discovered". You may, therefore, elect to obtain protection in excess of your purchase price. The charge therefor is 10% of the regular fee rate.

If you do not wish this additional optional coverage, you must waive same by signing in the space following this notice.

NOTE: INSURANCE UNDER THE TIRSA OWNER'S EXTENDED PROTECTION POLICY INCREASES TO 150% OF THE POLICY AMOUNT WITHOUT ENDORSEMENT

GENERAL AFFIDAVIT

STATE OF NEW YORK)
)ss:
COUNTY OF)

TITLE NO.:

DATE:

_____ and _____
(each) being duly sworn, depose(s) and say(s):

1. That (I am the) (we are the) (pres., sec., vp, member, partner), or _____ of _____
_____ the owner /purchaser of the premises known as _____
_____.

That we reside at _____ and following the closing
we will relocate to _____.

2. There are presently _____ tenants in said premises. Each of said tenants either (a) is in possession under a lease containing a standard subordination clause fully and unconditionally subordinating said lease to all existing and future mortgages, or (b) is a statutory tenant. All persons in possession are in possession pursuant to written leases as tenants only. There are no options to purchase or rights of first refusal either pursuant to written leases or by separate agreements.
3. That your deponent(s) has (have) not been known by any other names, married or single, during the past ten years except: _____
4. That the Bankruptcy proceedings, Judgments, Federal Tax Liens, Parking Violation Judgments, Environmental Control Board Liens, Environmental Control Board Fire Liens, State and City Tax Warrants, or any other liens, if any, returned in the above captioned report of title are not against your deponent(s), but against someone of the same or similar name, and that your deponent(s) has (have) never resided at or done business at or maintained an office at any of the addresses listed therein.
5. That there are no Debtor-Creditor or Bankruptcy Proceedings, nor any Judgments, Federal Tax Liens, Parking Violation Judgments, Environmental Control Board Liens, Environmental Control Fire Liens, Transit Adjudication Liens, or any other liens against your deponent(s) in any jurisdiction.
6. That I am the same person(s) as the grantee(s) in a certain deed recorded in Liber _____
Page _____. That my possession thereof has been peaceable and undisturbed and the title thereto has never been disputed, questioned or rejected nor insurance thereof refused, as far as I know. I know of no facts by reason of which said possession or title may be called in to question, or by reason of which any claim to any part of said premises or any interest therein adverse to me/it might be set up.
7. That the charter of said (corporation) (LLC) is in full force and effect and no proceeding is pending for its dissolution or annulment. That all license taxes, state franchise taxes and any City Corporate Business taxes, if applicable, due and payable by said (corporation) (LLC) have been paid in full. The transaction will not render the (corporation) (LLC) insolvent and further the transaction is in accordance with the directives of the entity and in the ordinary course of its business.
8. The undersigned agrees to pay or resolve, as expeditiously as possible, any unpaid franchise taxes, City Corporate Business Tax, or file the appropriate tax reports which may be due at the time of closing. The undersigned also agrees to hold STG Associates, Inc. harmless with respect to the same.

9. That there has been no change in the membership of the partnership known as _____ since its organization, nor has there been any change in the Partnership Agreement. That the person(s) executing the closing instruments had the authority to bind the partnership.
10. No work has been done upon the above premises by the City of New York nor has any demand been made by the City of New York for any such work that may result in charges by the New York City Department of Rent and Housing Maintenance, Emergency Services or charges by the New York City Department for Environmental Protection for water tap closings or an related work.
11. No inspection fees, permit fees, elevator(s), sign, boiler or other charges have been levied, charged, created or incurred that may become tax or other liens pursuant to Section 26-128 (formerly Section 643a-14.0) of the Administrative Code of the City of New York, as amended by Local Laws 10 of 1981 and 25 of 1984, and Section 26-4029.1 of the Administrative Code of the City of New York as amended by LL 43 (1988) or any other section of law. I (we) agree to indemnify STG Associates, Inc. for any loss, cost or damage resulting from any unpaid fee or charge claimed by the Department of Buildings and entered in the records of the City Collector after the date of closing.
12. That there has been no work performed by any agency of the City of New York to cure problems under The New York City Hazardous Substances Emergency Response Law, nor can any lien be incurred pursuant to the aforementioned statute. The undersigned agrees to indemnify STG Associates, Inc. from any loss, cost or damage, for any lien incurred up to the date of this affidavit, whether filed or unfilled.
13. There are (no) street/vaults adjoining or in front of said premises. The undersigned agrees to indemnify STG Associates, Inc. for any loss, cost or damage, for any unpaid vault charge(s) which have been or may be levied by The City of New York.
14. That in the event the bank did not pay the _____
I hereby agree to pay said tax and any interest and penalty that may be due.
15. That I have not received any notice to install or repair sidewalks &/or curbs to the premises.
16. That I am the same person, or the unremarried spouse of the person entitled to the tax exemption benefitting the subject premises.
17. That there are no other instruments, including deeds, mortgages, ucc's, lis pendens which affect the subject premises.
18. That _____ died on _____. That the marriage between _____ and _____ was in full force and effect and that there was in existence no separation agreement or judicial decree affecting the premises.

That I make this affidavit to induce and indemnify STG Associates, Inc. to insure title free and clear of the aforesaid, knowing that they will rely on the truth of the statements herein made.

Sworn to before me this _____
day of _____, 2003

Title No. N-2304071

SCHEDULE C

ALL that certain plot, piece or parcel of land, situate, lying and being at New Cassel, Town of North Hempstead, County of Nassau and State of New York, known and designated as Lots 13 to 15, inclusive and Lots 69 to 72, inclusive, in Block 76 on a certain map entitled, "2nd Map of the City of New Cassel, Queens County, Long Island, New York, surveyed August 1891, by William Hauxhurst, Surveyor", and filed in the Office of the Clerk of the County of Nassau under File No. 3, Case No. 14, which said lots, according to said map are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Kinkel Street distant 200 feet southerly from the corner formed by the intersection of the easterly side of Kinkel Street and the southerly side of Main Street;

RUNNING THENCE easterly at right angles to the easterly side of Kinkel Street, 100 feet;

THENCE southerly parallel with the easterly side of Kinkel Street, 25 feet;

THENCE easterly again at right angles to the easterly side of Kinkel Street 100 feet to the westerly side of Sylvester Street;

THENCE southerly along the westerly side of Sylvester Street, 100 feet;

THENCE westerly again at right angles to the easterly side of Kinkel Street, 100 feet;

THENCE northerly parallel with the easterly side of Kinkel Street, 50 feet;

THENCE westerly again at right angles to the easterly side of Kinkel Street 100 feet to the said easterly side of Kinkel Street;

THENCE northerly along the easterly side of Kinkel Street 75 feet to the point or place of BEGINNING.

For conveyancing only, if intended to be conveyed.

Together with all rights, title and interest of, in and to any streets and roads abutting the above described premises, to the center line thereof.

TITLE NO. 0576-2304071B TX

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

NASSAU COUNTY TAX SEARCH

DATE: 09/29/03

PREMISES: 62 KINKEL STREET, WESTBURY

VILLAGE: NONE

TOWN: NORTH HEMPSTEAD

ASSESSED TO: *DERMKRAFT INC

ASSESSED VALUE: (CTY) 8300/13450

TAX CLASSIFICATION: 710.24

SCHOOL DISTRICT: WESTBURY 1

SECTION: 11

BLOCK: 076

LOT: 69-72

TOWN OF NORTH HEMPSTEAD REAL ESTATE TAX

GENERAL DUE: (T/C) JANUARY 1 AND JULY 1

PERIOD COVERED: JANUARY 1 TO DECEMBER 31

SCHOOL DUE: OCTOBER 1 AND APRIL 1

PERIOD COVERED: JULY 1 TO JUNE 30

SD: 001

SEC: 11

BLK: 076

LOT: 69-72

2002/2003 SCHOOL TAX, 1 1/2 \$ 4656.46 PAID
2 1/2 \$ 4656.45 PAID

2003 GENERAL TAX, 1 1/2 \$ 2853.29 PAID
2 1/2 \$ 2853.29 PAID

WATER - WESTBURY WATER DISTRICT

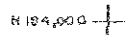
EXCEPT NO INFORMATION AVAILABLE

NOTE: UP-TO-DATE BILL OR RECEIPT MUST BE PRODUCED AT CLOSING.
SUBJECT TO PRIOR WATER CHARGES NOT ENTERED AND SUBSEQUENT
WATER CHARGES SINCE DATE OF LAST READING.

SUBJECT TO CONTINUATION PRIOR TO CLOSING.

AFFIDAVIT SHOULD BE TAKEN AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL
ASSESSMENTS (I.E., SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). TAX
SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SUCH NOTICES.

Search does not guarantee against items not a lien up to the date shown hereon. Search does not guarantee against pending assessments or against installments for assessments due after date shown hereon. Pensions (exemptions) if shown hereon are not applicable to School taxes unless said exemptions are Senior Citizen, Ministerial or paraplegic exemptions. Exempt Property Restored "Factors" (if any) shown above represent the difference between the actual tax shown and what the tax would have been had there been no exemption. Restored tax is figured on a pro-rata basis from date of deed to end of fiscal year of each tax so affected. Method of collection of restored tax is not uniform for all municipalities. Tax search does not guarantee against any claims resulting from levies of restored taxes. This search does not cover any part of streets on which the premises abut. Recent payments of any open items returned on this tax search may not yet be reflected on the public record. Therefore, request the seller or buyer to have the receipted bills available at the closing. The returns are guaranteed to School District, Section, Block and Lot. The search is prepared exclusively for S.T.G. ASSOCIATES, on 09/29/03.
0576-2304071B



5.

5

WYK

SYLVESTER

OLD COUNTRY RD.

152,450
12,150

2,121,800

LEGEND				SPECIAL DISTRICTS				MUNICIPALITIES			
LINE	DESCRIPTION	CODE	NAME	LINE	DESCRIPTION	CODE	NAME	LINE	DESCRIPTION	CODE	NAME
1	COUNTY LINE		POLICE	1	AREPAJOTA		MUSICA	1	TOWN OF		NASSAU COUNTY
2	TOWN LINE		AREPAJOTA	2	AREPAJOTA		MUSICA	2	HEMPSTEAD		LAND & TAX MAP
3	WATER LINE		WATER	3	WATER		MUSICA	3	ROCKAWAY		DEPARTMENT OF ASSESSMENT
4	SEWER LINE		SEWER	4	SEWER		MUSICA	4	ROCKAWAY		AND RECORDS
5	PROPERTY LINE		PROPERTY	5	PROPERTY		MUSICA	5	ROCKAWAY		CHAIRMAN BOARD OF ESTIMATIONS
6	FROM ADJACENT LINE		FROM ADJACENT	6	FROM ADJACENT		MUSICA	6	ROCKAWAY		MAP APPROVED
7	BLACK LINE		BLACK LINE	7	BLACK LINE		MUSICA	7	ROCKAWAY		
8	LOCATION POINT		LOCATION POINT	8	LOCATION POINT		MUSICA	8	ROCKAWAY		
9	TAX MAP LOCATION		TAX MAP LOCATION	9	TAX MAP LOCATION		MUSICA	9	ROCKAWAY		
10	CALCULATED HOUSING		CALCULATED HOUSING	10	CALCULATED HOUSING		MUSICA	10	ROCKAWAY		
11	WATER SERVICE		WATER SERVICE	11	WATER SERVICE		MUSICA	11	ROCKAWAY		
12	SEWER SERVICE		SEWER SERVICE	12	SEWER SERVICE		MUSICA	12	ROCKAWAY		
13	WATER SERVICE		WATER SERVICE	13	WATER SERVICE		MUSICA	13	ROCKAWAY		
14	SEWER SERVICE		SEWER SERVICE	14	SEWER SERVICE		MUSICA	14	ROCKAWAY		
15	WATER SERVICE		WATER SERVICE	15	WATER SERVICE		MUSICA	15	ROCKAWAY		
16	SEWER SERVICE		SEWER SERVICE	16	SEWER SERVICE		MUSICA	16	ROCKAWAY		
17	WATER SERVICE		WATER SERVICE	17	WATER SERVICE		MUSICA	17	ROCKAWAY		
18	SEWER SERVICE		SEWER SERVICE	18	SEWER SERVICE		MUSICA	18	ROCKAWAY		
19	WATER SERVICE		WATER SERVICE	19	WATER SERVICE		MUSICA	19	ROCKAWAY		
20	SEWER SERVICE		SEWER SERVICE	20	SEWER SERVICE		MUSICA	20	ROCKAWAY		
21	WATER SERVICE		WATER SERVICE	21	WATER SERVICE		MUSICA	21	ROCKAWAY		
22	SEWER SERVICE		SEWER SERVICE	22	SEWER SERVICE		MUSICA	22	ROCKAWAY		
23	WATER SERVICE		WATER SERVICE	23	WATER SERVICE		MUSICA	23	ROCKAWAY		
24	SEWER SERVICE		SEWER SERVICE	24	SEWER SERVICE		MUSICA	24	ROCKAWAY		
25	WATER SERVICE		WATER SERVICE	25	WATER SERVICE		MUSICA	25	ROCKAWAY		
26	SEWER SERVICE		SEWER SERVICE	26	SEWER SERVICE		MUSICA	26	ROCKAWAY		
27	WATER SERVICE		WATER SERVICE	27	WATER SERVICE		MUSICA	27	ROCKAWAY		
28	SEWER SERVICE		SEWER SERVICE	28	SEWER SERVICE		MUSICA	28	ROCKAWAY		
29	WATER SERVICE		WATER SERVICE	29	WATER SERVICE		MUSICA	29	ROCKAWAY		
30	SEWER SERVICE		SEWER SERVICE	30	SEWER SERVICE		MUSICA	30	ROCKAWAY		
31	WATER SERVICE		WATER SERVICE	31	WATER SERVICE		MUSICA	31	ROCKAWAY		
32	SEWER SERVICE		SEWER SERVICE	32	SEWER SERVICE		MUSICA	32	ROCKAWAY		
33	WATER SERVICE		WATER SERVICE	33	WATER SERVICE		MUSICA	33	ROCKAWAY		
34	SEWER SERVICE		SEWER SERVICE	34	SEWER SERVICE		MUSICA	34	ROCKAWAY		
35	WATER SERVICE		WATER SERVICE	35	WATER SERVICE		MUSICA	35	ROCKAWAY		
36	SEWER SERVICE		SEWER SERVICE	36	SEWER SERVICE		MUSICA	36	ROCKAWAY		
37	WATER SERVICE		WATER SERVICE	37	WATER SERVICE		MUSICA	37	ROCKAWAY		
38	SEWER SERVICE		SEWER SERVICE	38	SEWER SERVICE		MUSICA	38	ROCKAWAY		
39	WATER SERVICE		WATER SERVICE	39	WATER SERVICE		MUSICA	39	ROCKAWAY		
40	SEWER SERVICE		SEWER SERVICE	40	SEWER SERVICE		MUSICA	40	ROCKAWAY		
41	WATER SERVICE		WATER SERVICE	41	WATER SERVICE		MUSICA	41	ROCKAWAY		

TITLE NO. 0576-2304071A TX

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

NASSAU COUNTY TAX SEARCH

DATE: 09/29/03

PREMISES: 62 KINKEL ST, WESTBURY

VILLAGE: NONE

TOWN: NORTH HEMPSTEAD

ASSESSED TO: *DERMKRAFT INC

ASSESSED VALUE: (CTY) 7150/13600

TAX CLASSIFICATION: 710.24

SCHOOL DISTRICT: WESTBURY 1

SECTION: 11

BLOCK: 076

LOT: 13-15

TOWN OF NORTH HEMPSTEAD REAL ESTATE TAX

GENERAL DUE: (T/C) JANUARY 1 AND JULY 1

PERIOD COVERED: JANUARY 1 TO DECEMBER 31

SCHOOL DUE: OCTOBER 1 AND APRIL 1

PERIOD COVERED: JULY 1 TO JUNE 30

SD: 001

SEC: 11

BLK: 076

LOT: 13-15

2002/2003 SCHOOL TAX, 1 1/2 \$ 4708.39 PAID
2 1/2 \$ 4708.39 PAID

2003 GENERAL TAX, 1 1/2 \$ 2884.87 PAID
2 1/2 \$ 2884.87 PAID

WATER - WESTBURY WATER DISTRICT

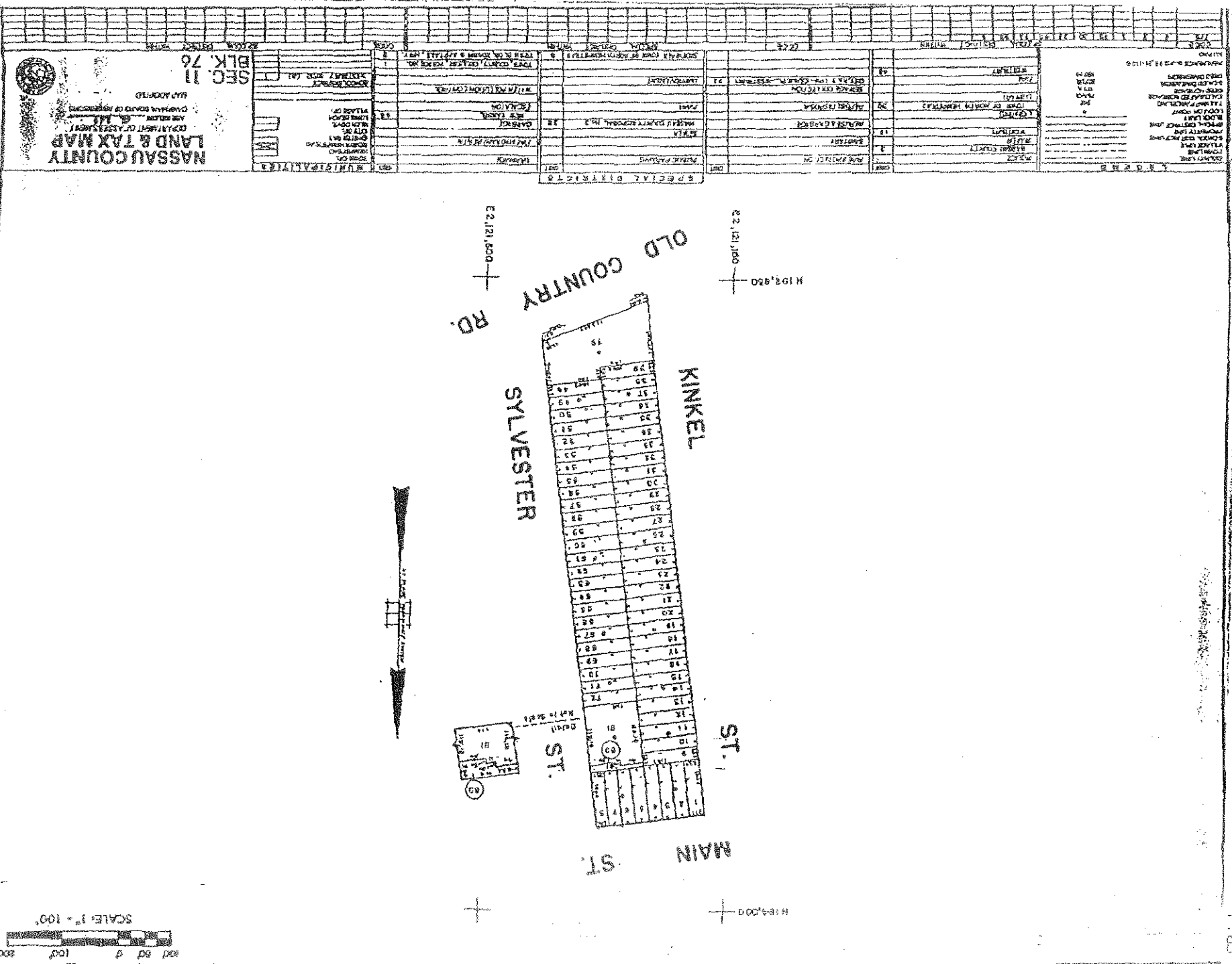
EXCEPT NO INFORMATION AVAILABLE

**NOTE: UP-TO-DATE BILL OR RECEIPT MUST BE PRODUCED AT CLOSING.
SUBJECT TO PRIOR WATER CHARGES NOT ENTERED AND SUBSEQUENT
WATER CHARGES SINCE DATE OF LAST READING.**

SUBJECT TO CONTINUATION PRIOR TO CLOSING.

**AFFIDAVIT SHOULD BE TAKEN AT CLOSING THAT OWNER HAS NOT RECEIVED NOTICE OF SPECIAL
ASSESSMENTS (I.E., SIDEWALK REPAIRS, LOT CLEARANCE, OR EMERGENCY REPAIRS). TAX
SEARCH DOES NOT GUARANTEE AGAINST EXISTENCE OF SUCH NOTICES.**

Search does not guarantee against items not a lien up to the date shown hereon. Search does not guarantee against pending assessments or against installments for assessments due after date shown hereon. Exemptions (exemptions) if shown hereon are not applicable to School taxes unless said exemptions are Senior Citizen, Ministerial or paraplegic exemptions. Exempt Property Restored "Factors" (if any) shown above represent the difference between the actual tax shown and what the tax would have been had there been no exemption. Restored tax is figured on a pro-rata basis from date of deed to end of fiscal year of each tax so affected. Method of collection of restored tax is not uniform for all municipalities. Tax search does not guarantee against any claims resulting from levies of restored taxes. This search does not cover any part of streets on which the premises abut. Recent payments of any open items returned on this tax search may not yet be reflected on the public record. Therefore, request the seller or buyer to have the receipted bills available at the closing. The returns are guaranteed to School District, Section, Block and Lot. The search is prepared exclusively for S.T.G. ASSOCIATES. on 09/29/03.
0576-2304071A



Title No. N-2304071

SURVEY READING

Any state of facts which an accurate survey might show.

Title No. M-2304071

MORTGAGE SCHEDULE

Disposition

Mortgagor NONE

Mortgagee

Amount: \$

Dated:

Recorded:

Reel: Page:

Mortgage Tax Paid: \$

Due

These mortgage returns, unless the mortgage is to be insured, will appear as exceptions from coverage. The information set forth herein is obtained from the recorded instrument and does not reflect unrecorded instruments that may affect the insured premises nor does it purport to reflect all recitals in the instrument of record. If requested the Company will supply, for an extra charge, full copies of instruments of record.

Title No. N-2304071

MUNICIPAL DEPARTMENT SEARCHES
For Information Only

No state or municipal department searches for notices of violations of laws, regulations and ordinances filed therein and no searches for certificate of occupancy, building or other permits or licenses are made unless specifically requested by the applicant. If requested, they are made by the particular municipal department and are called "Record Search"; they disclose only those violations reported by the last inspection made by the department and do not show the present condition, which can be ascertained only by requesting a new municipal inspection and paying the fee therefor. Such searches, specifically requested, are made at an additional charge to the applicant.

This Company does not, in any event, insure that the buildings or other erections upon the premises or their use comply with Federal, State and Municipal laws, regulation and ordinances, and therefore assumes no liability whatsoever by reason of the ordering of such searches and does not insure their accuracy. The following information has been furnished by the various departments.

Department of Housing & Buildings Search: None Requested.

Fire Department Search: None Requested.

Emergency Repair Department Search: None Requested.

Certificate of Occupancy Search: Ordered, but not yet received.

Highway Department Search: None Requested.

Street Report: As Annexed.

NOTE:

UPON RECEIPT OF THE ABOVE DEPARTMENT SEARCHES, ANY QUESTION RESULTING THEREFROM SHOULD BE DIRECTED TO THE APPROPRIATE DEPARTMENT AT THE TELEPHONE NUMBER LISTED ON ITS LETTERHEAD.

Title No. N-2304071

STREET REPORT

Kinkel Street is being maintained by the Town of North Hempstead.

(For title insurance office use only)

REPORT OF CLOSING

Title closed at office of _____ on _____ (month) _____ (day) _____ (year) by _____

By delivery of the following instruments:

DEED (Designate Kind)

By _____

To _____

Dated _____
Cons. \$ _____
Insure for \$ _____

G.I. - F.H.A. - CONVENTIONAL
MORTGAGE (Designate kind)

By _____

To _____

Dated _____
Amount \$ _____ Payable in _____
Due _____
Interest _____ % Interest days _____ and _____
Insure for \$ _____

DEED (Designate Kind)

By _____

To _____

Dated _____
Cons. \$ _____
Insure for \$ _____

MORTGAGE (Designate kind)

By _____

To _____

Amount, \$ _____ Dated _____
Due _____ Int. _____ % Int. Days _____ and _____
Insure for \$ _____

ASSIGNMENT OF MORTGAGE

By _____
To _____
Dated _____
Cons. \$ _____
Assigns Mortgage Recorded in L. _____ Mp. _____ Sec. _____
Insure for \$ _____

By _____
To _____
Dated _____
Cons. \$ _____
Assigns Mortgage Recorded in L. _____ Mp. _____ Sec. _____
Insure for \$ _____

SATISFACTION OF MORTGAGE

By _____

DATED _____
Satisfies mortgage Recorded in L. _____ Mp. _____

By _____

DATED _____
Satisfies mortgage Recorded in L. _____ Mp. _____

OTHER CLOSING INSTRUMENTS

Parties Present At Closing

Buyer's Social Security Number _____
Seller's Social Security Number _____
Attorney for Seller _____
Attorney for Purchaser _____
Attorney for Lender _____

Fee policy to be sent to: _____ Address _____
Mortgage Policy to be sent to: _____ Address _____



STG ASSOCIATES INC.

46 CARNATION AVENUE • FLORAL PARK, NEW YORK 11001

(516) 488-8811

FAX (516) 488-8611

October 16, 2003

William J. Zaccaria & Associates
175 East Shore Road
Great Neck, NY 11023

Re: Title No.: N-2304071
Premises: 62 Kinkel Street
Westbury, NY
Owner: Dermkraft, Inc./GCC Land Development Corporation
Purchaser: 67 Sylvester Street Holding, LLC.

Dear Counselor;

Kindly attach this letter and the enclosed Certificate of Occupancy Report for Lots 13-15 and 69-72 to your copy of the above referenced Title Report and consider them a part thereof.

Very truly yours,

Frederic Nelson
Title Officer

FN/db
Encl.

cc: Suozzi, Meyer & English - Attn: James Rochford
Tannenbaum, Helpert - Attn: Neil Botwinoff

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

CERTIFICATE OF OCCUPANCY REPORT

DATE: 9/30/2003

PREMISES: 62 KINKEL STREET, WESTBURY

TOWN OF NORTH HEMPSTEAD

COUNTY: NASSAU

SECTION: 11 BLOCK: 076 LOT: 69-72

SEC: 11 BLOCK: 076 LOT: 69-72

A SEARCH OF THE RECORDS CONDUCTED BY THE DEPARTMENT OF BUILDINGS REVEALS
THE FOLLOWING INFORMATION:

PERMIT

ISSUED 09/08/75

DEMOLISH RESIDENCE AND GARAGE

CO# 76-00013

ISSUED 04/01/76

PERMIT# 3627

COMMERCIAL BUILDING - ONE STORY

IMPORTANT NOTICE ABOUT SEARCH INFORMATION ABOVE

ABSTRACTERS' INFORMATION SERVICE INC. DOES HEREBY CERTIFY THAT RECORDS OF THE ABOVE MENTIONED MUNICIPALITY HAVE BEEN EXAMINED AND THAT THE INFORMATION RECORDED ABOVE IS A TRUE AND ACCURATE ABSTRACTION OF THE INFORMATION CONTAINED THEREIN. THIS REPORT IS SUBMITTED FOR INFORMATIONAL PURPOSES ONLY. LIABILITY IS LIMITED TO THE COST OF THE SEARCH. THIS SEARCH IS PREPARED EXCLUSIVELY FOR S.T.G. ASSOCIATES on 9/30/2003. 0576-2304071B

Town of North Hempstead

Michael J. Tuohy,
BUILDING DE
JOHN F. McDON
Manhasset, New

TOWN OF NORTH HEMPSTEAD BUILDING DEPT.

Receipt No. 3231 Date 9/8/75
First Fee
Code 6
Permit/License Fee 10 -
By: [Signature]

File No. Permit Fee \$10.00

APPLICATION FOR DEMOLITION

INSTRUCTIONS

- This application is to be made out in duplicate.
- No application will be accepted unless complete with all questions answered or noted.
- WHEN THE APPLICATION IS APPROVED IT BECOMES A PERMIT AND MUST BE KEPT ON THE PREMISES UNTIL COMPLETION OF THE WORK AUTHORIZED THEREIN.**

APPLICATION IS HEREBY MADE to the Building Official for permission to demolish the entire building or buildings herein described.

Location:
Section 11 Block 76 Lot 64-72 Zone 1ND B.
side of SYLVAN ST Street 225 feet
S of MAIN ST NEW CASSI
Nearest intersection Town

How is building occupied? D.E.S.
Dimensions of Building 54 x 32 Stories 1 1/2 Garage

This application is made with the understanding that if the application is granted and in consideration thereof, I agree to save the Town of North Hempstead harmless from any liability for and be reason of any injury to persons or property as a result of negligence or otherwise in connection with this demolition.

The following affidavits must accompany this application:

Water disconnect, Sewer disconnect and Gas & Electric disconnect.

A Certificate of Insurance covering Workmen's Compensation, Disability Benefits Insurance and Public Liability shall be filed with the Building Official.

Disposal of debris shall not take place in the unincorporated area of the Town of North Hempstead.

Applicant shall state herein the location of debris disposal

OCEAN SIDE LAND FILL

AFFIDAVIT OF OWNER

STATE OF NEW YORK, }
COUNTY OF NASSAU, } ss.:
JOHN LAKE being duly sworn, deposes and says
that is the owner of the property heretofore described and set forth in this application,
and that all statements in this application are true to the best of his knowledge and belief.

Sworn to before me
this 9 day of October 1975
Florence Ritznore
Notary Public, Nassau County, N. Y. Expires March 30, 1977

AFFIDAVIT OF CONTRACTOR

STATE OF NEW YORK, }
COUNTY OF NASSAU, } ss.:
MICHAEL CARR being duly sworn, deposes and says
that has an agreement with the owner to demolish the building or buildings on the property
heretofore described and set forth in this application, and that all statements in this application are true
to the best of his knowledge and belief.

Sworn to before me
this 9 day of October 1975
Florence Ritznore
Notary Public, Nassau County, N. Y. Expires March 30, 1977

Do not write in this space.

Certificate of Occupancy

BUILDING DEPARTMENT, TOWN OF NORTH HEMPSTEAD
MANHASSET, NEW YORK

NO. 76-00013

Date April 1, 1976

3627, 268508
3627 This Certifies that THE BUILDING LOCATED IN Sec. No. 11 Block No. 76 Lot No. 69-72

Nassau County Tax Map, Address: West side of Sylvester Street 225 feet south of Main
Street, Westbury, New York

conforms substantially to the approved plans on file in this office, Permit No. 3627 Date 10/27/75 and
to all requirements of the Building Zone Ordinance and Building Code of The Town of North Hempstead, Nassau County, N. Y.

Zone Ind. B Occupancy *** Commercial Building-One Story ***

This certificate issued to

Laka Realty Corporation

owners

of the aforesaid building.

62 Kinkaid Street, Westbury, New York

Taah Building Corp.

Owner-Builder-Architect

Richard F. Ant...

Building Official

Address: 1001 Manhasset, Farmingdale, N.Y.



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ALT ID 69-72

TAX CODE 4 ZONING
ADDRESS 67 KINKEL ST

NBHD C0801 RESTRICTIONS

LUC 7102

LVG UNIT 0 DERMKRAFT INC

CLASS 4

BOOK/PAGE:

----- PROPERTY FACTORS -----

TOPO 1/ / LEVEL /

UTIL 1/ / ALL PUBL /

ST/RD 1/ / PAVED /

TRAFFIC 2 MEDIUM

----- LOCATION FACTORS -----

FRONTING

LOCATION 7 COMMERCIAL

PARKING TYPE QUANTITY

AVAIL /

LAND ADJ %

PROXIMITY

NOTES

----- LAND DATA -----

ACRES

TY SQFT/UNITS

PE LN CD FRONT DEPTH

SQ 1 1 10,000

PRIMARY SITE

PRICE INFL -FAC

10.00

BASE SIZE

0

BASE RATE

10.00

INCR /DECR

10.00

LAND-VAL

100,000.00

ADJ FACTOR(CA14) 1.0000

ADJ FACTOR (CA11) 1.0000

ADJ FACTOR (AA44) 1.0000

ADJ FACTOR (AA44) 1.0000

ADJ FACTOR (AA44) 1.0000

ADJ FACTOR (AA44) 1.0000

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COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT

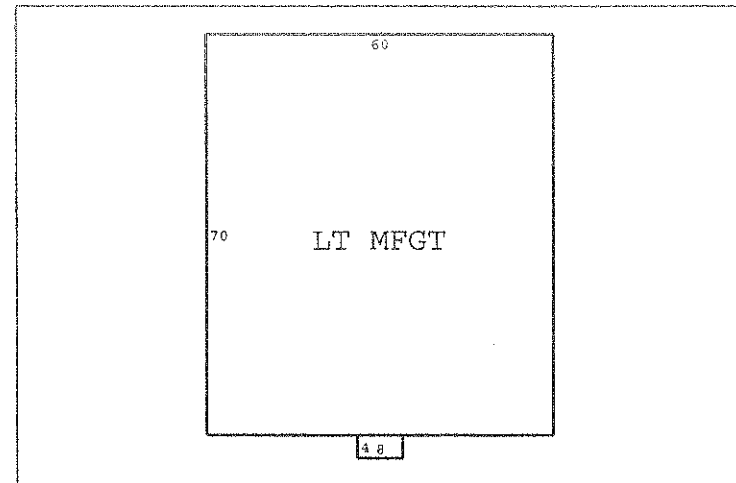
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CARD 1 OF 1 TAX YEAR 2003 TIEBACK

FIELD REVIEW FLAG ()

PAGE: 1

CA321



----- APARTMENT INFORMATION -----
USE MDL COUNT BED BATH HALF OTHER UNITS

----- MISC. IMPROVEMENTS ----- 0

GROSS BUILDING SUMMARY

DESCR VALUE 0

----- BUILDING PERMIT RECORD -----

DATE NUMBER AMOUNT PURPOSE

OCT 01, 2003
03:56 PM
11-076- -0069.0
ALT ID

69-72

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY
CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 2
CA321

BLDG	1	YR	BLT	1952	EFF	YR	#	UNITS	STRUCTURE	401	MFG/PROCESS	GRADE	C	ID.	UNITS	1	NAMELESS	FACILITY	INV	RAT
LN	LNUM	CODE	DESCRIPTION	+/-	MEAS1	MEAS2	STOPS	IU	UNIT	COST	PRICE									
1	1	CP6	CANOPY ROOF/SLAB		32	1		1	18.84	600										

INTERIOR / EXTERIOR INFORMATION																														
LINE	SCT	FRM	TO	YRBLT	WDTH	LGTH	AREA	PERM	TYPE	HT	EXT	CON	FIN	PTN	HT	AC	PLB	LT	FEAT	RCN	BASE	RCN	PER	SF	PHY	FUN	%RENT	%	GD	%COMP
1	1	01	01	1952			4200	236	044	07	14	03	2	100	2	1	1	2	2	600	274,692	65.26	4	3					53	
									LIGHT	MANUF		CONC	FRS		NRM	HOT	CTR	NRM	NORM					GD	AV					
2	1	E1	E1	1952			700	60	085	00	10	13	0	100	2	1	1	2	2	0	32,515	46.45	4	3					53	
									ENCLOSURE			ENCL			NRM	HOT	CTR	NRM	NORM					GD	AV					

OTHER BUILDING & YARD IMPROVEMENTS												
TYP	YEAR	EFF	SIZE	GRD	QW	MODS	C	F	%COMP	MA%	ADJFACT	VALUE
PA1	1952		1X3000	C	1		3	3		50	1.0000	5600
PAVING ASP												

TOTAL CBY VALUE

5,600

PARKING DATA	
COVERED	UNCOVERED
0	0
TOTAL SQUARE FEET: 4,200	
BASE R.C.N. 307,210	
GRADE FACTOR 73.15 /SQFT	
ADJ R.C.N. 1.00	
OVERALL % GOOD 307,210	
R.C.N.L.D. 73.15 /SQFT	
NO IDENT UNITS 53	
TOTAL R.C.N.L.D. 162,830	
ADJUSTMENT FACTOR (CA31) 38.77 /SQFT	
TOTAL YARD IMP VALUE 1	
OTHER: 0	
TOTAL CARD VALUE 168,430	
ECF % (CA11)	

OCT 01, 2003
03:56 PM
11-076- -0069.0
ALT ID

69.72

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY
CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE 3
CA321

MODEL TYPE - 00 - NONE

MODEL NUM: 000

EST ECONOMIC INCOME

EXPENSES - AGE GROUP:

GROSS LEASABLE AREA (GRA)	X	% RENTABLE AREA (%RA)	=	NET LEASABLE AREA (NLA)
700	X	100.00%	=	700

MODEL ANNUAL RATE/SF	X	ECO ADJ		
.00	X	100.0%		.00 ADJ RATE

OVERALL EXPENSE RATIO

MODEL RATIO	X	AGE ADJ	X	ECO ADJ	=	ADJ EXP
.0%	X	100.0%	X	100.0%	=	.0%

POTENTIAL GROSS INCOME
TOTAL POTENTIAL GROSS INCOME

0
0

UTILITY EXPENSE PSF

MODEL RATE PSF	X	AGE ADJ	X	ECO ADJ	=	ADJ UTIL EXP PSF
.00	X	100.0%	X	100.0%	=	0.00

VACANCY AND CREDIT LOSS

MODEL	X	AGE ADJ	X	ECO ADJ	=	ADJ VAC/CL
.0%	X	100.0%	X	100.0%	=	.0%

0

EFFECTIVE GROSS INCOME

0

ADDITIONAL INCOME

0

EXPENSES

.0%

0

OVERALL EXPENSE % (ADJ)

UTILITY EXPENSE PSF

GROSS LEASABLE AREA	X	ADJ UTIL EXP RATE
700	X	.00

0

NET INCOME

0

OCT 01, 2003
03:56 PM
11-076- -0069.0
ALT ID

69-72

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT

NASSAU, NY

CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 4
CA321

MODEL TYPE - 07 - LT MFG/WHS

EST ECONOMIC INCOME

GROSS LEASABLE AREA (GRA)	X	% RENTABLE AREA (%RA)	=	NET LEASABLE AREA (NLA)
4,200	X	100.00%	=	4,200

MODEL ANNUAL RATE/SF	X	ECO ADJ	
7.25	X	120.0%	8.70 ADJ RATE

POTENTIAL GROSS INCOME	36,540
TOTAL POTENTIAL GROSS INCOME	36,540

VACANCY AND CREDIT LOSS

MODEL	X	AGE ADJ	X	ECO ADJ	=	ADJ VAC/CL	
8.0%	X	110.0%	X	100.0%	=	8.8%	-3,216

EFFECTIVE GROSS INCOME	33,324
ADDITIONAL INCOME	0
EXPENSES	-3,666

OVERALL EXPENSE % (ADJ)

UTILITY EXPENSE PSF

GROSS LEASABLE AREA	X	ADJ UTIL EXP RATE
------------------------	---	----------------------

4,200	X	.00	0
NET INCOME			29,658

MODEL NUM: 015

EXPENSES - AGE GROUP: 016

OVERALL EXPENSE RATIO

MODEL RATIO	X	AGE ADJ	X	ECO ADJ	=	ADJ EXP
10.0%	X	110.0%	X	100.0%	=	11.0%

UTILITY EXPENSE PSF

MODEL RATE PSF	X	AGE ADJ	X	ECO ADJ	=	ADJ UTIL EXP PSF
.00	X	110.0%	X	100.0%	=	0.00

GCT 01, 2003
03:56 PM
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ALT ID

69-72

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY
CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 5
CA321

CAPITALIZATION SUMMARY

07 - LT MFG/WHS	NET LEASABLE AREA	NET INCOME
	4,200	29,658

CAPITALIZATION RATE COMPONENTS
OVERALL RETURN RATE

MODEL OR	OVERRIDE =	CAP RATE
.1050	.0000% =	.1050%
TAX RATE	=	ADJ RATE
.0532	=	.0532
ADJUSTED CAP RATE	%	.1582 %

TOTAL NET LEASEABLE AREA (EXCLUDING ENCLOSURES, PARKING GARAGE, ETC.)	4,200
TOTAL NET INCOME	29,658
DIRECT OVERALL CAPITALIZATION	.1582%
INDICATED VALUE (INCOME)	187,415
RESIDUAL LAND VALUE	0
LESS VALUE - PERSONAL PROPERTY	0
TOTAL INDICATED VALUE (INCOME)	187,420

OCT 01, 2003
03:56 PM
11-076- -0069.0
ALT ID

69-72

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY

CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 6
CA321

PARCEL SUMMARY VALUES

PARCEL TOTAL			COST APPROACH			INCOME APPROACH	
LAND SIZE	10,000	LAND	100,000	10.00 /SQFT	LAND	100,000	10.00 /SQFT
BLDG SIZE	4,200	IMP	168,430	40.10 /SQFT	IMP	87,420	20.81 /SQFT
		TOTAL	268,430	63.91 /SQFT	TOTAL	187,420	44.62 /SQFT
ADJUSTED R.C.N.			307,210	73.15 /SQFT			
OVERALL % GOOD			53				
R.C.N.L.D.			162,830	38.77 /SQFT			
(INCLUDES PERCENT COMPLETE - SEE CARD DETAIL)							
BLDG ADJ FACTOR (CA31)			1.0000				
TOTAL YARD IMP VALUE			5,600				
TOTAL OTHER IMP VALUE			0				
TOTAL IMP VALUE			168,430				
ECF		0%					
ADJ TOTAL IMP VALUE			168,430				
IMP VALUE			168,430				
LAND VALUE			100,000				
TOTAL VALUE			268,430				

ADJ TOTAL IMP VALUE * BLDG ADJ FACTORS (AA44): 1.0000 * (CA11): 1.0000

PREVIOUS YEARS VALUES

LAND 0 BUILDING 0

PREV YEARS APPRAISED VALUES

LAND 0 BUILDING 0

CURRENT LAND	100,000	BUILDING	87,420	TOTAL	187,420
ASSESSED LAND	0	BUILDING	0	TOTAL	0
REVIEW CODE	4 INCOME APPROACH	REVIEW REASON			
REVIEW DATE	16-JAN-02	REVIEWER ID	135		

ESTIMATE LAND		BUILDING		TOTAL	
REVIEW CODE	REVIEW REASON	REVIEWER ID			
REVIEW DATE					
REVIEW STATUS	3				
MAINTAINED ON	16-AUG-02	STATUS			

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 11435
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

CERTIFICATE OF OCCUPANCY REPORT

DATE: 9/30/2003

PREMISES: 62 KINKEL ST, WESTBURY

TOWN OF NORTH HEMPSTEAD

COUNTY: NASSAU

SECTION: 11 BLOCK: 076 LOT: 13-15

SEC: 11 BLOCK: 076 LOT: 13-15

A SEARCH OF THE RECORDS CONDUCTED BY THE DEPARTMENT OF BUILDINGS REVEALS
THE FOLLOWING INFORMATION:

CO# 52-851
ISSUED 12/08/52
PERMIT# 28811
SHOP

CC# 332
ISSUED 09/20/76
PERMIT# 5654
BLOCK BUILDING TO CONNECT TWO EXISTING BUILDINGS

CC# 56-48
ISSUED 08/07/56
PERMIT# 36181
ADDITION TO METAL STAMPING PLANT

IMPORTANT NOTICE ABOUT SEARCH INFORMATION ABOVE

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MUNICIPALITY HAVE BEEN EXAMINED AND THAT THE INFORMATION RECORDED ABOVE IS A TRUE AND
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PREPARED EXCLUSIVELY FOR S.T.G. ASSOCIATES on 9/30/2003. 0576-2304071A

Certificate of Occupancy

N^o 52- 851

52-851

BUILDING DEPARTMENT, TOWN OF NORTH HEMPSTEAD
MANHASSET, NEW YORK

DATE December 8, 1952

N 317001 This Certifies that the BUILDING LOCATED IN SEC. NO. 11 BLOCK NO. 78 LOT NO. 13-15
NASSAU COUNTY TAX MAP, ADDRESS East side Kinkel Street 200 feet south of Main Street,

New Canaan, Westbury, New York

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS ON FILE IN THIS OFFICE, PERMIT NO. 28811 DATE 8/20/52
AND TO ALL REQUIREMENTS OF THE BUILDING ZONE ORDINANCE AND BUILDING CODE OF THE TOWN OF NORTH HEMPSTEAD, NASSAU COUNTY, N. Y.

ZONE Ind. B OCCUPANCY *** Shop ***

THIS CERTIFICATE ISSUED TO John Laka

owner

ADDRESS 122 Haddon Road, New Hyde Park, N. Y.

Kjellgren-Hewett Co.

OWNER - BUILDER - OWNER

ADDRESS 333 Hillside Ave., Williston Park, N. Y.

BUILDING OFFICIAL

Certificate of Completion

BUILDING DEPARTMENT, TOWN OF NORTH HEMPSTEAD
MANHASSET, NEW YORK

No. 00332

DATE SEP 19 1976

THE CERTIFICATE THAT THE BUILDING LOCATED IN SEC. NO. 11 BLOCK NO. 76 LOT NO. 13-15

69-12

MASSAUS COUNTY TAX MAP, ADDRESS 4/3 S. JEFFERSON ST. 225, S. OF HENRY STREET, WESTBURY

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS ON FILE IN THIS OFFICE, PERMIT NO. 5534 DATE MARCH 18, 1976

AND TO ALL REQUIREMENTS OF THE BUILDING ZONE ORDINANCE AND BUILDING CODE OF THE TOWN OF NORTH HEMPSTEAD, MASSAUS COUNTY, N.Y.

ZONE L-2B COMPLETION 50' X 40' BLOCK BUILDING TO CONNECT TWO EXISTING

BUILDINGS.

THIS CERTIFICATE ISSUED TO

JOHN LAKE, LAKE REALTY CORPORATION

OWNER

OF THE AFORESAID BUILDING

Address 62 KINKEL STREET, WESTBURY, N.Y. 11590

REINHOLD S. GILBY
OWNER - BUILDER - ARCHITECT

Address 608 TOTTEN ROAD, LYNDEN, N.Y. 11563

Building Official

Certificate of Completion

No. 56-48

BUILDING DEPARTMENT, TOWN OF NORTH HEMPSTEAD
MANHASSET, NEW YORK

DATE August 7, 1956

N 703919

This Certifies that THE BUILDING LOCATED IN SEC. NO. 11 BLOCK NO. 76 LOT NO. 13-15

NASSAU COUNTY TAX MAP, ADDRESS East side Kinkel Street 200 feet south of Main Street,
Westbury, New York

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS ON FILE IN THIS OFFICE, PERMIT NO. 36181 DATE 5/24/56
AND TO ALL REQUIREMENTS OF THE BUILDING ZONE ORDINANCE AND BUILDING CODE OF THE TOWN OF NORTH HEMPSTEAD, NASSAU COUNTY, N. Y.

ZONE Ind. B COMPLETION *** Addition to Metal Stamping Plant ***

Variance granted by Board of Zoning and Appeals case #4948 May 23rd. 1956

THIS CERTIFICATE ISSUED TO John Laka

owner

OF THE AFORESAID BUILDING.

ADDRESS 62 Kinkel St., Westbury, N. Y.

Hewett Construction Co.

~~XXXXXX~~ - BUILDER - ~~XXXXXX~~

ADDRESS 60 Dartmouth St., Williston Park, N. Y.

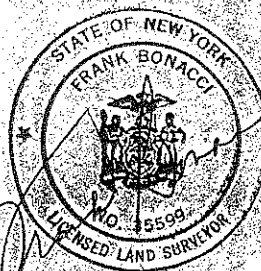
BUILDING OFFICIAL

MAIN



BUILDING DEP'T

JOB NO 74-85



OCT 01, 2003
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11-076- 0013.0
ALT ID

13-15

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY
CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 2
CA321

BLDG	1	YR	BLT	1976	EFF	YR	#	UNITS	STRUCTURE 401 MFG/PROCESS	GRADE C	ID.	UNITS	1	NAMELESS WAREHOUSE	INV	RAT
LN	LN	CODE	DESCRIPTION						BUILDING OTHER FEATURES / ATTACHED IMPROVEMENTS							
1	1	PR1	PORCH, OPEN						+/- MEAS1 MEAS2 STOPS IU					UNIT COST		PRICE
2	1	CP7	CANOPY RF-ECONOMY						32 1 1 1					44.00		1,410
									220 1 1					24.75		5,450

INTERIOR / EXTERIOR INFORMATION																														
LEVELS DIMENSION				USE				INT				OTHER				RCN														
LINE	SCT	FRM	TO	YRBLT	WDTH	LGTH	AREA	PERM	TYPE	HT	EXT	CON	FIN	PTN	HT	AC	PLB	LT	FEAT	RCN	BASE	RCN	PER	SF	PHY	FUN	%RENT	%	GD	%COMP
1	1	01	01	1976			6231	318	044	07	14	03	2	100	2	1	1	2	2	6,860		402,342	63.47	4	3			77		
				LIGHT MANUF				CONC FRS				NRM HOT				CTR NRM NORM								GD AV						

OTHER BUILDING & YARD IMPROVEMENTS												
TYP	YEAR	EFF	SIZE	GRD	QN	MODS	C	F	%COMP	MA%	ADJFACT	VALUE
PA1	1976		1X3500	C	1		3	3		50	1.0000	6600
PAVING ASP												

TOTAL OBY VALUE

6,600

PARKING DATA	
COVERED	UNCOVERED
0	0
TOTAL SQUARE FEET: 6,231	
BASE R.C.N. 402,342	
GRADE FACTOR 64.57 /SQFT	
ADJ R.C.N. 1.00	
402,340	
OVERALL % GOOD 64.57 /SQFT	
77	
R.C.N.L.D. 309,800	
49.72 /SQFT	
NO IDENT UNITS 1	
TOTAL R.C.N.L.D. 309,800	
ADJUSTMENT FACTOR (CA31) 1.0000	
TOTAL YARD IMP VALUE 6,600	
OTHER: 0	
TOTAL CARD VALUE 316,400	
ECF % (CALL)	

OCT 01, 2003
03:55 PM
11-076- -0013.0
ALT ID

13-15

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT

NASSAU, NY

CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 3
CA321

MODEL TYPE - 07 - LT MFG/WHS

MODEL NUM: 015

EST ECONOMIC INCOME

EXPENSES - AGE GROUP: 016

GROSS LEASABLE AREA (GRA)	X	% RENTABLE AREA (%RA)	=	NET LEASABLE AREA (NLA)
6,231	X	100.00%	=	6,231

MODEL ANNUAL RATE/SF	X	ECO ADJ
7.25	X	120.0%

8.70 ADJ RATE

POTENTIAL GROSS INCOME 54,210
TOTAL POTENTIAL GROSS INCOME 54,210

VACANCY AND CREDIT LOSS

MODEL	X	AGE ADJ	X	ECO ADJ	=	ADJ VAC/CL
8.0%	X	103.0%	X	100.0%	=	8.2%

-4,445

EFFECTIVE GROSS INCOME 49,765
ADDITIONAL INCOME 0
EXPENSES 10.3% -5,126

OVERALL EXPENSE % (ADJ)

UTILITY EXPENSE PSF

GROSS LEASABLE AREA	X	ADJ UTIL EXP RATE
6,231	X	.00

NET INCOME 44,639

OVERALL EXPENSE RATIO

MODEL RATIO	X	AGE ADJ	X	ECO ADJ	=	ADJ EXP
10.0%	X	103.0%	X	100.0%	=	10.3%

UTILITY EXPENSE PSF

MODEL RATE PSF	X	AGE ADJ	X	ECO ADJ	=	ADJ UTIL EXP PSF
.00	X	103.0%	X	100.0%	=	0.00

OCT 01, 2003
03:55 PM
11-076- 0013.0
ALT ID

13-15

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY
CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 4
CA321

CAPITALIZATION SUMMARY

07 - LT MFG/WHS	NET LEASABLE AREA	NET INCOME
	6,231	44,639

CAPITALIZATION RATE COMPONENTS
OVERALL RETURN RATE

MODEL OR	OVERRIDE =	CAP RATE
.1050	.0000%	.1050%
TAX RATE	=	ADJ RATE
.0532	=	.0532
ADJUSTED CAP RATE	%	.1582 %

TOTAL NET LEASEABLE AREA (EXCLUDING ENCLOSURES, PARKING GARAGE, ETC.)	6,231
TOTAL NET INCOME	44,639
DIRECT OVERALL CAPITALIZATION	.1582%
INDICATED VALUE (INCOME)	282,083
RESIDUAL LAND VALUE	0
LESS VALUE - PERSONAL PROPERTY	0
TOTAL INDICATED VALUE (INCOME)	282,080

OCT 01, 2003
03:55 PM
11-076- -0013.0
ALT ID

13-15

MAP/ROUTE

COMMERCIAL / INDUSTRIAL REVIEW DOCUMENT
NASSAU, NY

CARD 1 OF 1 TAX YEAR 2003 TIEBACK
FIELD REVIEW FLAG ()

PAGE: 5
CA321

PARCEL SUMMARY VALUES

PARCEL TOTAL			COST APPROACH			INCOME APPROACH	
LAND SIZE	7,500	LAND	75,000	10.00 /SQFT	LAND	75,000	10.00 /SQFT
BLDG SIZE	6,231	IMP	316,400	50.78 /SQFT	IMP	207,080	33.23 /SQFT
		TOTAL	391,400	62.81 /SQFT	TOTAL	282,080	45.27 /SQFT
ADJUSTED R.C.N.			402,340	64.57 /SQFT			
OVERALL * GOOD			77				
R.C.N.L.D.			309,800	49.72 /SQFT			
(INCLUDES PERCENT COMPLETE - SEE CARD DETAIL)							
BLDG ADJ FACTOR (CA31)			1.0000				
TOTAL YARD IMP VALUE			6,600				
TOTAL OTHER IMP VALUE			0				
TOTAL IMP VALUE			316,400				
ECF	0%						
ADJ TOTAL IMP VALUE			316,400				
IMP VALUE			316,400				
LAND VALUE			75,000				
TOTAL VALUE			391,400				

ADJ TOTAL IMP VALUE * BLDG ADJ FACTORS (AA44): 1.0000 * (CA11): 1.0000

PREVIOUS YEARS VALUES
LAND 0 BUILDING 0

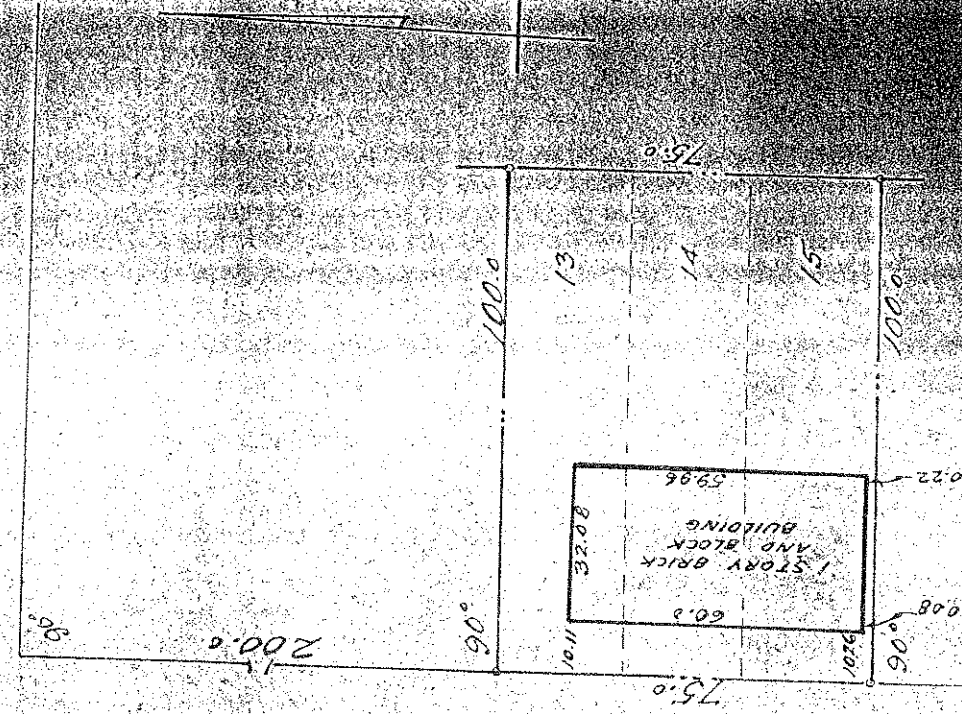
PREV YEARS APPRAISED VALUES
LAND 0 BUILDING 0

CURRENT LAND	75,000	BUILDING	207,080	TOTAL	282,080
ASSESSED LAND	0	BUILDING	0	TOTAL	0
REVIEW CODE	4 INCOME APPROACH	REVIEW REASON			
REVIEW DATE	16-JAN-02	REVIEWER ID	135		
ESTIMATE LAND		BUILDING		TOTAL	
REVIEW CODE	REVIEW REASON	REVIEWER ID			
REVIEW DATE					
REVIEW STATUS	3				
MAINTAINED ON	16-AUG-02	STATUS			

FILE NO. 2984887

MAIN

ST



ST

KINKEL

FOUNDATIONS BASED ON
BUILDING LOCATION UNDER CONSTRUCTION 5/20/22/198

OWNER JOHN L. LADD

LOTS 13, 14, 15

BLOCK 76

2nd MAP OF NEW ORLEANS

LOCATION WESTBORN, N.

SURVEY GUARANTEED TO

FILE NO. 2972-C

BOOK 92

PAGE 61

71 THE COR

NELSON B. BALDWIN

LICENSED LAND SURVEYOR

WESTBURY, N. Y.

EDUCATION TO BE FURNISHED 2.5

SCALE 1" = 20'

DATE

June 6



STG ASSOCIATES INC.

46 CARNATION AVENUE • FLORAL PARK, NEW YORK 11001

(516) 488-8811
FAX (516) 488-8611

*Received
6 Nov 03*

November 5, 2003

William J. Zaccaria & Associates
175 East Shore Road
Great Neck, NY 11023

RE: Title No.: N-2304071
Premises: 62 & Kinkel Street
Westbury, NY
Owner: Dermkraft, INC./GCC land Development Corp.
Purchaser: 67 Sylvester Street Holding, LLC

Dear Counselor:

Kindly attach this letter and the enclosed Building Violation Search for Lots 13-15 and 69-72 to your copy of the above referenced Title Report and consider them a part thereof.

Very truly yours,

Frederic Nelson
Title Officer

FN/db
Encl.

cc: Suozzi, Meyer & English - James Rochford
Tannenbaum, Helpert

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 1435
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

BUILDING VIOLATION SEARCH

DATE: 10/20/2003

PREMISES: 62 KINKEL STREET, WESTBURY

TOWN OF NORTH HEMPSTEAD

COUNTY: NASSAU

SECTION: 11 BLOCK: 076 LOT: 69-72

DEPARTMENT OF BUILDINGS

A search of Building Department records indicate the following:

☒ There were no pending violations found on file as per search
dated: 10/01/03

☐ for pending violations found on file as per search
dated:

IMPORTANT NOTICE ABOUT SEARCH INFORMATION ABOVE

ABSTRACTERS' INFORMATION SERVICE INC. DOES HEREBY CERTIFY THAT THE RECORDS OF THE ABOVE MENTIONED GOVERNMENTAL AGENCY HAVE BEEN EXAMINED AND THAT THE INFORMATION RECORDED ABOVE IS A TRUE AND ACCURATE ABSTRACTION OF THE INFORMATION FURNISHED BY THE AGENCY.

THIS REPORT IS SUBMITTED FOR INFORMATIONAL PURPOSES ONLY. LIABILITY IS LIMITED TO THE COST OF THE SEARCH.

THIS SEARCH DOES NOT INCLUDE OTHER AGENCY VIOLATIONS, NOR DOES IT INCLUDE OPEN PERMIT INFORMATION, REFER TO CERTIFICATE OF OCCUPANCY REPORT.

ABSTRACTERS' INFORMATION SERVICE, INC.

138-72 QUEENS BOULEVARD BRIARWOOD, N.Y. 1435
(718) 291-5900 (516) 742-2290 (914) 761-4451 FAX (718) 291-6681

BUILDING VIOLATION SEARCH

DATE: 10/20/2003

PREMISES: 62 KINKEL ST, WESTBURY

TOWN OF NORTH HEMPSTEAD

COUNTY: NASSAU

SECTION: 11 BLOCK: 076 LOT: 13-15

DEPARTMENT OF BUILDINGS

A search of Building Department records indicate the following:

☒ [X] There were no pending violations found on file as per search
dated: 10/01/03

☐ [] for pending violations found on file as per search
dated:

IMPORTANT NOTICE ABOUT SEARCH INFORMATION ABOVE

ABSTRACTERS' INFORMATION SERVICE INC. DOES HEREBY CERTIFY THAT THE RECORDS OF THE ABOVE MENTIONED GOVERNMENTAL AGENCY HAVE BEEN EXAMINED AND THAT THE INFORMATION RECORDED ABOVE IS A TRUE AND ACCURATE ABSTRACTION OF THE INFORMATION FURNISHED BY THE AGENCY.

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Quality Title Services

46 Carnation Avenue * Floral Park, New York 11001

Paul Holmes * Margaret Dato * Richard Frey

www.stgassoc.com

(516) 488-8811

(718) 256-2447

(212) 447-0098

Fax: (516) 488-8611

Title No:

915164886367 P.02
NASS 2304071

Application Date: 09/30/03

Report Date: 10/01/03

APPLICANT: M8660		LENDER'S ATTORNEY:	
WILLIAM J. ZACCARIA & ASSOCIATES 175 EAST SHORE ROAD GREAT NECK, NY 11023 Tel: (516) 487-1602 Fax: (516) 487-0552			
RECORD OWNER:		AMOUNT OF INSURANCE:	
DERMKRAFT, INC./ GCC LAND DEVELOPMENT CORP.		Fee and Leasehold \$650,000.00 <i>\$ 635,000-</i>	
PURCHASER:		COMPANY CHARGES:	
67 SYLVESTER STREET HOLDING, LLC.		Premium Fee <i>3055-</i> 3115.00 Market Value Rider 312.00 Waiver of Arbit.-Owner 25.00	
INSURED MORTGAGE:		<i>Camer</i> 60.00	
SURVEY INSTRUCTIONS:			
		Departmental Searches: <i>140-</i> 55.00 <i>CO</i>	
SELLER'S ATTORNEY: S1195		ESTIMATED RECORDING CHARGES:	
SUOZZI, MEYER & ENGLISH 1505 KELLUM PLACE MINEOLA, NY 11501 Att: JAMES ROCHFORD		Estimated tax based on Residential Property. <i>2540-</i> NY State Transfer Tax 3480.00 Mortgage Tax - Lender Mortgage Tax - Borrower 5000.00 Real Property Tax (RPT) Estimated Recording Fees	
PREMISES:		EST. PRE-CLOSING TOTAL:	
62 KINKEL STREET WESTBURY, NY County: NASSAU Distr: Sect: 11 Block: 76 Lot: 13-15 ALSO LOTS 69-72		Recording(s) <i>deed</i> 160.00 <i>note + cert</i> 145.00 <i>ass 4.250 B.I.D.</i> 90.00	
SPECIAL INSTRUCTIONS:		TOTAL CHARGES: 11,215.00	
CC: BUYERS ATTY TANNENBAUM, HELPERN 900 3RD AVENUE NEW YORK, NY 10022 ATTN: NEIL BOTWINOFF		Purchaser: Cash Checks <i>Monied #1845 (OK Paid)</i> 8,675.00	
Note: Estimated recording charges computation of tax due is based on Residential Property. Mortgage Tax rate is reduced by \$25 for a 1-2 family residence.		Seller: Cash Checks 940.00 2540.00	
Closed By: <i>Diane Melia</i> Date: <i>10/23/03</i>		Total Receipts 12,155.00	

Title No:

NASS 2304071

INTERNAL REVENUE CODE
SECTION 1445 (b) (2)

Dated: October 23, 2003

Title No.: _____

State of New York)
County of Nassau)

Karin LoGrieco, Assistant Secretary of GCC Land Development Corp.,
(the Seller) being first duly sworn, states under penalties of
perjury:

- the Assistant Secretary of*
- 1.) That I am *the transferor* of the property located at
62 Kinkel Street, Westbury, New York 11590 and
described as follows: Section: 11, Block: 76
Lots: 13, 14, 15, 69, 70, 71 & 72
- the transferor's*
- 2.) That ~~my~~ United States taxpayer identification
number is 01- 0567870:
- the transferor is*
- 3.) That ~~I am~~ not a "foreign person" as that term is
defined in section 1445(f) of the Internal Revenue
Code.

This affidavit is given to 67 Sylvester Street Holdings, LLC (the
transferee) of the property described in paragraph 1 above for the
purpose of establishing and documenting the nonforeign affidavit
exemption to the withholding requirement of section 1445 of the
internal Revenue Code.

Karin LoGrieco

Karin LoGrieco, Assistant Secretary
59 New York Avenue,
Westbury, New York 11590

Subscribed and sworn to before me this 23rd day of October 2003.

Diane Melia

Notary Public

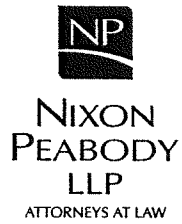
DIANE MELIA
Notary Public, State Of New York
No. 01ME4646632
Qualified In Queens County

Commission expires: ___/___/___.

Commission Expires Feb. 28, 20 04

Note: This affidavit may be used where the transferor is a
nonforeign person as referred to in the foreign investment in Real
Property Tax Act, as amended by the Deficit Reduction Act in 1984.

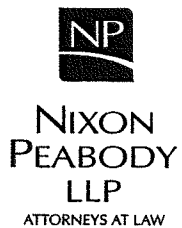
Exhibit F



Denise DiCicco Pursley
(516) 832-7542

990 Stewart Avenue
Garden City, NY 11530-4838
(516) 832-7500 or FAX: 832-7555
www.nixonpeabody.com

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www.nixonpeabody.com

E-mail:
mtone@nixonpeabody.com

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Division of Environmental Remediation

Inactive Hazardous Waste Disposal Report

April 1, 2002

Site Name: Former LAKA Industries, Inc.	Site Code: 130043K
Class Code: 2 Region: 1 County: Nassau	EPA Id: NYD001095363
Address: 62 Kinkel Street / New Cassel, NY 11590	
Latitude: 40° 45' 24" Longitude: 73° 33' 41"	
Site Type: Structure	Estimated Size: 0.17 Acres

Site Owner / Operator Information:

Current Owner(s) Name: DermKraft, Inc.
Current Owner(s) Address: 62 Kinkel Street / New Cassel, NY 11590
Owner(s) during disposal: unknown
Operator(s) during disposal: LAKA Industries, Inc.
Stated Operator(s) Address: 62 Kinkel Street / New Cassel, NY 11590
Hazardous Waste Disposal Period: From: 1971 To: 1984

Site Description:

This site is located on the east side of Kinkel Street, south of Main Street in the New Cassel Industrial Area. The former occupants LAKA Tools and Stamping and LAKA Industries used trichloroethylene (TCE) as a degreaser. Soil samples collected from an abandoned drywell or cesspool contained extremely high levels of TCE and cis-1,2-dichloroethylene (DCE) and groundwater samples collected at the same locations also contained high levels of both TCE and cis-1,2-DCE. Past site operations have contaminated groundwater beneath and downgradient of the site with high levels of TCE and cis-1,2-DCE. The contaminated groundwater is located within an EPA designated sole-source aquifer. The contaminated plume that is emanating from this site has migrated approximately 700 feet downgradient. Two public water supply wells are located 1,500 feet downgradient of this site. This site has received a State Superfund referral. A standby consultant was authorized to implement a Focused Remedial Investigation and Feasibility Study. The field work was completed in October 1998. The Focused Remedial Investigation dated November 1998 and the Focused Feasibility Study dated May 1999 were presented along with the Proposed Remedial Action Plan (PRAP) for Operable Unit 1 (OU-1) on-site soil and groundwater were presented at a public meeting September 30, 1999. The selected remedy was the excavation and off-site disposal of soil and includes monitoring of on-site groundwater for a period of at least two years. The ROD for OU-1 was issued on February 29, 2000 and a Superfund referral was issued on January 3, 2001. The Remedial Action for OU-1 began on February 18, 2002. The excavation and cleanout of the cesspool and catch basin began on February 19, 2002 and confirmatory samples were collected. The excavation was restored and the final inspection was completed on February 28, 2002. The waste material was removed from the site in March, 2002.

Confirmed Hazardous Waste Disposal:

Trichloroethylene (F001-F002)

Quantity:

unknown

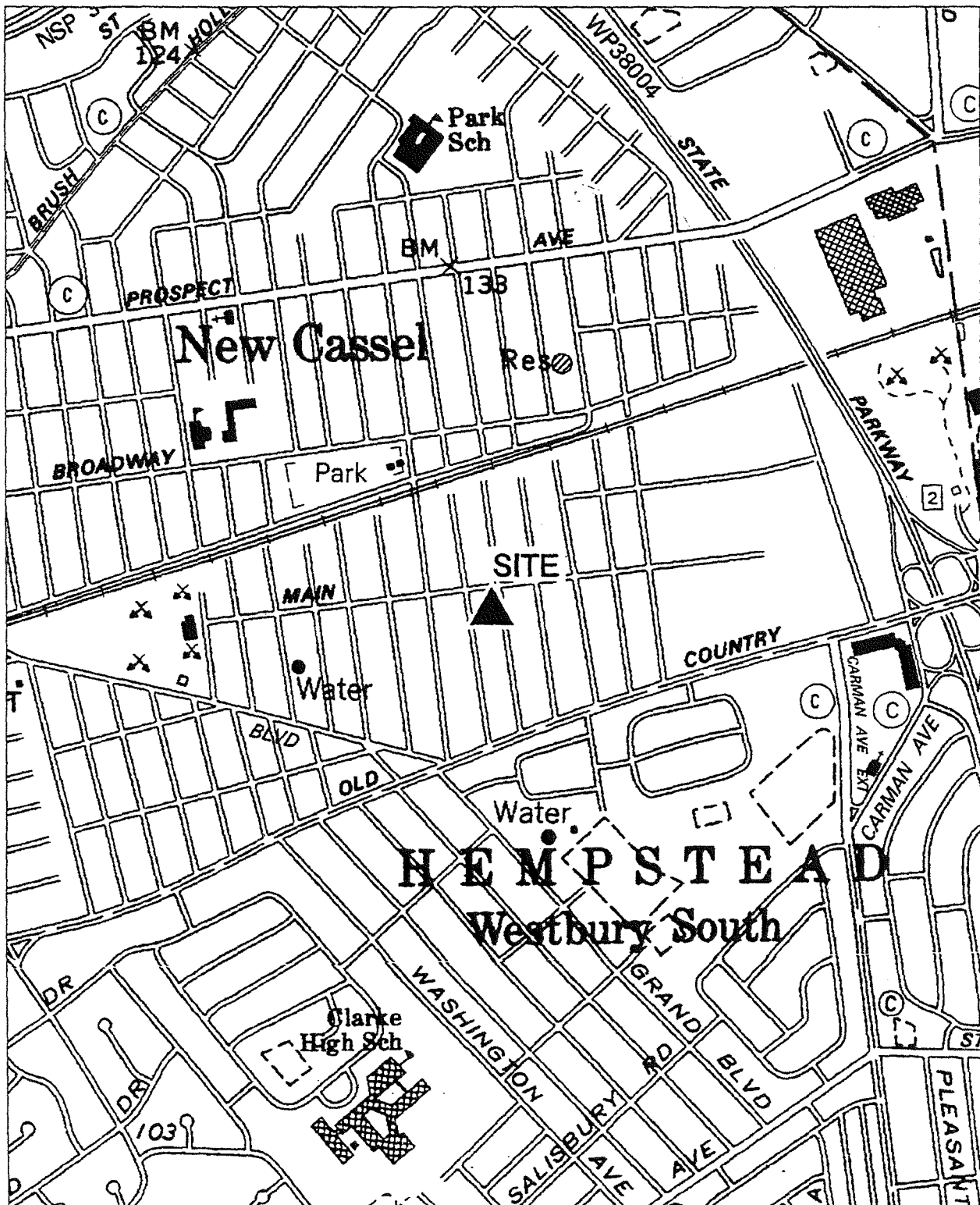
Analytical Data Available for:	Groundwater	Soil
Applicable Standards Exceeded in:	Groundwater	
Geotechnical Information:		Depth to
Soil/Rock Type: Fine to medium sand with gravel.		Groundwater: Range: 55 to 60 feet.
Legal Action: Type:		Status:
Remedial Action: Complete	Nature of action:	Source removal + monitoring.

Assessment of Environmental Problems:

Past site operations have contaminated the groundwater within a sole-source aquifer at and downgradient of the site with high levels of Trichloroethylene.

Assessment of Health Problems:

There are multiple groundwater contaminant plumes beneath the New Cassel Industrial Park. Activities at the site have contributed to the groundwater contamination. Public water supply wells are located 300 to 500 yards downgradient of the industrial area and are contaminated with levels of volatile organic compounds (VOCs) that exceed New York State drinking water standards. The wells are treated to remove contaminants before water is distributed to customers. Strategies to further protect the impacted downgradient supply wells are currently being discussed.



Site Location Map

130043K Former LAKA Industries, Inc.

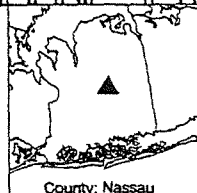
Map Source: NYSDOT 1:24,000-scale planimetric quadrangles



0 250 500 750 1000 Feet

Scale: 1:12,000

April 1, 2002



County: Nassau

Exhibit G

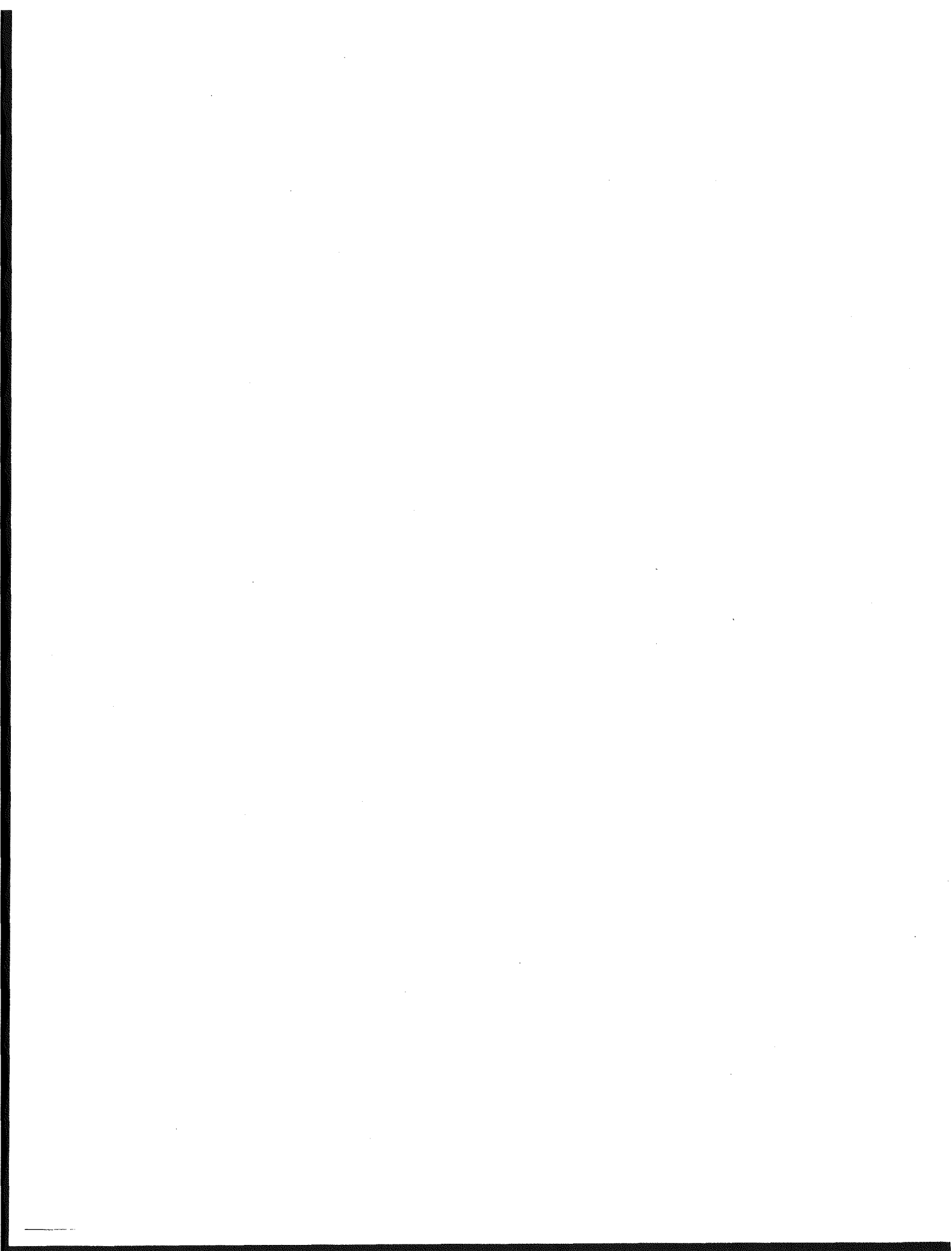


Division of Environmental Remediation

Record of Decision
Former LAKA Industries, Inc. Site
Town of North Hempstead, Nassau County
Site Number 1-30-043 K
Operable Unit - 01
On-site Soil and Groundwater

February 2000

New York State Department of Environmental Conservation
GEORGE E. PATAKI, *Governor* JOHN P. CAHILL, *Commissioner*



DECLARATION STATEMENT - RECORD OF DECISION

Former LAKA Industries, Inc. Inactive Hazardous Waste Site Town of North Hempstead, Nassau County, New York Site No. 1-30-043 K Operable Unit - 01: On-site Soil and Groundwater

Statement of Purpose and Basis

The Record of Decision (ROD) presents the selected remedy for the Former LAKA Industries, Inc. class 2 inactive hazardous waste disposal site which was chosen in accordance with the New York State Environmental Conservation Law. The remedial program selected is not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan of March 8, 1990 (40CFR300).

This decision is based on the Administrative Record of the New York State Department of Environmental Conservation (NYSDEC) for the Former LAKA Industries, Inc. inactive hazardous waste site and upon public input to the Proposed Remedial Action Plan (PRAP) presented by the NYSDEC. A listing of the documents included as a part of the Administrative Record is included in Appendix B of the ROD.

Assessment of the Site

Actual or threatened release of hazardous waste constituents from this site, if not addressed by implementing the response action selected in this ROD, presents a current or potential significant threat to public health and the environment.

Description of Selected Remedy

Based on the results of the Focused Remedial Investigation/Feasibility Study (FRI/FS) for the Former LAKA Industries, Inc. site and the criteria identified for evaluation of alternatives, the NYSDEC has selected excavation of the on-site abandoned cesspool and the proper disposal of the waste materials off-site. The components of the remedy are as follows:

- Excavation of the first four feet of soil to locate any underground utilities and structures.
- Installation of shoring and bracing to protect personnel and the existing building during excavation.
- Excavation to a depth of 25 feet using appropriate excavation equipment to remove contaminated soils.

- Confirmatory soil samples will be collected at the bottom of the excavation to insure that all soils above the TAGM values were removed.
- Excavated soils will be staged and soil samples collected and analyzed to determine the proper method of off-site disposal and treatment, if necessary.
- Backfill of the excavation with clean fill material.
- Extract the contaminated sludges from the bottom of the catch basin located at 54 Kinkel Street by utilizing a vacuum truck. The sludge will be analyzed to determine the proper method of off-site disposal and treatment, if necessary.
- Semi-annual groundwater monitoring of four shallow and two deep monitoring wells, for at least two years, to measure quality improvements resulting from the removal of the source of contamination. The monitoring results will be reviewed annually to determine whether additional actions are necessary.
- Implementation of institutional controls and the recording of deed restrictions to restrict the future use of groundwater at the site.
- Off-site (downgradient) groundwater contamination will be addressed as a part of the overall investigation of the groundwater contamination that is migrating from all Class 2 sites in the NCIA.

New York State Department of Health Acceptance

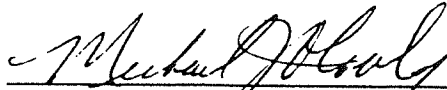
The New York State Department of Health concurs with the remedy selected for this site as being protective of human health.

Declaration

The selected remedy is protective of human health and the environment, complies with State and Federal requirements that are legally applicable or relevant and appropriate to the remedial action to the extent practicable, and is cost effective. This remedy utilizes permanent solutions and alternative treatment or resource recovery technologies, to the maximum extent practicable, and satisfies the preference for remedies that reduce toxicity, mobility, or volume as a principal element.

Date

2/29/00



Michael J. O'Toole, Jr., Director
Division of Environmental Remediation

TABLE OF CONTENTS

SECTION	PAGE
1: Summary and Purpose of the Record of Decision	1
2: Site Location and Description	2
3: Site History	3
3.1 Operational/Disposal History	3
3.2 Remedial History	3
4: Site Contamination	4
4.1 Summary of Focused Remedial Investigation	4
4.1.1 Site Geology and Hydrogeology	5
4.1.2 Nature of Contamination	5
4.1.3 Extent of Contamination	5
4.2 Summary of Human Exposure Pathways	7
4.3 Summary of Environmental Exposure Pathways	8
5: Enforcement Status	9
6: Summary of the Remediation Goals	10
7: Summary of the Evaluation of Alternatives	10
7.1 Description of Remedial Alternatives	10
7.2 Evaluation of Remedial Alternatives	12
8: Summary of the Selected Remedy	14
9: Highlights of Community Participation	16

TABLE OF CONTENTS - CONTINUED

Tables	-	Table 1: Nature and Extent of Contamination Soil	17
	-	Table 2: Nature and Extent of Contamination Groundwater	18
	-	Table 3: Remedial Alternative Costs	19
 Figures			
	-	Figure 1 Site Location Map	20
	-	Figure 2 NCIA Site Locations Map	21
	-	Figure 3 Monitoring Locations	22
	-	Figure 4 Phase I Probe Soil Sampling Results	23
	-	Figure 5 Phase II Soil Probe Sampling Results	24
	-	Figure 6 VOC Groundwater Contamination Shallow Wells	25
	-	Figure 7 VOC Groundwater Contamination Deep Wells	26
 Appendix			
	-	Appendix A: Responsiveness Summary	27
	-	Appendix B: Administrative Record	31

RECORD OF DECISION

FORMER LAKA INDUSTRIES, INC.

Town of North Hempstead, Nassau County, New York

Site No. 1-30-043 K

Operable Unit - 01: On-site Soil and Groundwater

February 2000

SECTION 1: SUMMARY AND PURPOSE OF THE RECORD OF DECISION

The New York State Department of Environmental Conservation (NYSDEC) in consultation with the New York State Department of Health (NYSDOH) has selected this remedy to address the significant threat to human health and/or the environment created by the presence of hazardous waste at the Former LAKA Industries Site. The site is located in the New Cassel Industrial Area (NCIA). The site was listed in the Registry of Inactive Hazardous Waste Disposal Sites (the Registry) as a Class 2 site in March 1996. A Class 2 site is a site at which hazardous waste was disposed which presents a significant threat to the environment or the public health and action is required. The disposal of waste materials into an on-site cesspool has resulted in the discharge of a number of hazardous wastes, including 2-butanone, trichloroethylene (TCE) and related compounds, some of which were released or migrated from the site to surrounding areas, including the groundwater beneath and downgradient of the site. These disposal activities have resulted in the following significant threats to the public health and the environment:

- a significant threat to human health and the environment associated with this site's contravention of groundwater standards in a sole source aquifer.

The contaminated groundwater at the Former LAKA Industries site, as well as in the entire NCIA, presents a potential route of exposure to humans. The area is served by public water, however, the underlying aquifer is the source of the water supply for the Bowling Green Water District customers. An air stripping treatment system was constructed in 1996 to mitigate the impact of the groundwater contamination on the Bowling Green public water supply wells. The Bowling Green water supply wells are routinely monitored for purity and quality. Guard wells have been installed south of Old Country Road, in locations downgradient of NCIA hazardous waste disposal sites and upgradient of the water supply wells as a precautionary measure. Therefore, use of the groundwater in the area is not currently considered to be an exposure pathway of concern.

Currently, there are thirteen (13) Class 2 sites in the NCIA. The Department has been using a three-prong strategy in remediating Class 2 sites in the NCIA. First, sources of contamination at these

sites are removed or remediated; second, groundwater contamination at and beneath each site is fully investigated and appropriate remedial actions are taken; and third, the Department is currently conducting a detailed investigation of groundwater contamination that is migrating from all Class 2 sites in the NCIA. Upon completion of this groundwater investigation, a remedy will be proposed to the public. After public review, a final groundwater remedy will be selected.

The Site has been investigated to locate source areas of contamination. This Record of Decision (ROD) addresses the removal of these on-site sources of contamination. On-site groundwater contamination ranges from 130 parts per billion (ppb) to 198 ppb of total volatile organic compounds (VOCs). It is expected that after the removal of the on-site sources of contamination, groundwater quality would improve. In order to assure that groundwater quality improves after the source removal, on-site groundwater will be monitored for a period of at least two years. The monitoring results will be reviewed annually to determine whether additional actions are necessary. Downgradient (off-site) groundwater contamination ranges from 144 to 340 ppb of total VOCs. This off-site groundwater contamination will be addressed as a part of the overall investigation of groundwater contamination that is migrating from all Class 2 sites.

In order to restore the Former LAKA Industries inactive hazardous waste disposal site to pre-disposal conditions to the extent feasible and authorized by law, but at a minimum to eliminate or mitigate the significant threat to the public health and/or the environment that the hazardous waste disposed at the site has caused, the following remedy was selected to address the on-site soil and groundwater contamination:

- excavation and off-site disposal of contaminated soils and sediments from the abandoned cesspool on-site;
- removal and off-site disposal of contaminated sludge from the catch basin at 54 Kinkel Street;
- semi-annual monitoring of groundwater quality in the area of the site for a period of at least two years. The monitoring results will be reviewed annually to determine whether additional actions are necessary.

The selected remedies are intended to attain the remediation goals selected for this site in conformity with applicable Standards, Criteria, and Guidance (SCGs).

SECTION 2: SITE LOCATION AND DESCRIPTION

The Former LAKA Industries site, Site No. 1-30-043 K, is located west of the intersection of Old Country Road and the Wantagh State Parkway in the NCIA, an approximately 170 acre industrial and commercial area, in the Town of North Hempstead, Nassau County, New York. Please refer to Figures 1 and 2.

There are thirteen (13) Class 2 sites located within the NCIA. The site is located at 62 Kinkel Street which is comprised of approximately three quarters of an acre of land that was formerly occupied by Doak Pharmacal and now is unoccupied. Please refer to Figure 3.

The site is entirely paved or covered with the footprint of the building with the exception of a small landscaped area at the front of the building (west side). Due to the density of the commercial and industrial buildings in the NCIA, there are no significant surface water sources near the Former LAKA site. The nearest surface waters are the small ponds within the Eisenhower Memorial Park, approximately two miles to the southwest.

SECTION 3: SITE HISTORY

3.1: Operational/Disposal History

The LAKA Tool and Stamping Co., Inc. occupied the site from 1971 to 1978, performing precision metal stamping operations as a defense contractor. LAKA Industries, Inc., the parent company, operated at the site from 1979 to 1984 as a machine shop specializing in tools, dies and precision stamping. Both companies used TCE and lubricating oils as reported in the Nassau County Department of Health (NCDH) industrial chemical survey. As the NCIA was not serviced by public sewers until the 1980's, subsurface disposal was the common means of waste disposal in the area.

Dermkraft Pharmaceuticals, a manufacturer of cosmetics, occupied the site from 1985 to 1992. Dermkraft, the current owner, purchased the property in 1989. Doak Pharmacal, the latest occupant, has manufactured cosmetics at the site since 1992.

During a Preliminary Site Assessment (PSA) in 1995, soil samples were collected near the northwest corner of the building at 62 Kinkel Street. These soil samples contained TCE up to 3,900 parts per million (ppm) and 1,2 cis-dichloroethylene (1,2 cis-DCE) up to 640 ppm. Several of these soil samples taken from an apparent abandoned cesspool on the site contained a black sludge material.

3.2: Remedial History

In 1986 the Nassau County Department of Health (NCDH) completed an investigation of groundwater quality and found the NCIA to be a major source of volatile organic chemical contamination in groundwater. As a result of this investigation the NYSDEC classified the entire NCIA as a Class 2 site in August 1988.

The NYSDEC contracted with Lawler, Matusky & Skelly Engineers (LMS) to conduct a PSA to identify sources of groundwater contamination and Potential Responsible Parties (PRPs). In March 1995 the NYSDEC, based upon this investigation report by LMS in February 1995, delisted the entire NCIA, and listed seven Class 2 sites. Another PSA was conducted by LMS in 1995. Based upon this PSA, the NYSDEC listed five Class 2 sites in the Registry in March 1996, which included the Former LAKA Industries, Inc. site.

SECTION 4: SITE CONTAMINATION

To evaluate the contamination present at the site and to evaluate alternatives to address the significant threat to human health and/or the environment posed by the presence of hazardous waste, the NYSDEC has recently conducted a Focused Remedial Investigation/Focused Feasibility Study (FRI/FFS).

4.1: Summary of the Focused Remedial Investigation

The purpose of the FRI was to define the nature and extent of any contamination resulting from previous activities at the site. The FRI was conducted between November 1997 and October 1998. A report entitled "Focused Remedial Investigation, Former LAKA Industries Site", dated November 1998 has been prepared which describes the field activities and findings of the FRI in detail. These investigations were conducted using a geoprobe, a vehicle mounted probe unit, capable of advancing a small diameter sampling device to depths of approximately 90 feet below ground surface (bgs) to collect either soil or groundwater samples.

The FRI included the following activities:

- Installation of thirty geoprobe soil borings to delineate the extent of the cesspool source area contamination and to identify any other source areas;
- A total of sixty-nine soil samples were collected from soil probe locations;
- Collection of three geoprobe groundwater samples to establish the impacts of existing sources of contamination on groundwater quality;
- Installation of four deep soil borings to determine physical properties of the soil and hydrogeologic conditions. These borings were then converted to deep monitoring wells;
- Three shallow wells were installed and paired with the deep wells to assist in the determination of the vertical extent of groundwater contamination;
- Collection of one round of groundwater samples from six existing and seven newly installed monitoring wells to further establish the horizontal extent of groundwater contamination;
- Soil and groundwater samples were analyzed for VOCs and metals, while sludges were analyzed for VOCs, semi-volatile organic compounds (SVOCs) and metals.

To determine which media (soil, groundwater, etc.) contain contamination at levels of concern, the FRI analytical data was compared to environmental Standards, Criteria, and Guidance values (SCGs). Drinking water, groundwater, and surface water SCGs identified for the Former LAKA Industries site are based on Part 5 of NYS Sanitary Code and NYSDEC Ambient Water Quality Standards and Guidance Values. For soils, NYSDEC Technical and Administrative Guidance

Memorandum (TAGM) 4046 provides soil cleanup objectives for the protection of groundwater, background conditions, and health-based exposure scenarios. Guidance values for evaluating contamination in sediments are provided by the NYSDEC "Technical Guidance for Screening Contaminated Sediments".

Based on the FRI results, in comparison to the SCGs and potential human health and environmental exposure routes, certain soil areas of the site require remediation. The FRI results are summarized below. More complete information can be found in the FRI Report.

Chemical concentrations are reported in parts per billion (ppb) or in parts per million (ppm). For comparison purposes, where applicable, SCGs are provided for each medium.

4.1.1: Site Geology and Hydrogeology

The Upper Pleistocene deposits of poorly sorted sands and gravel that make up the Upper Glacial Aquifer (UGA) are found from the surface to a depth of approximately 80 ft bgs. The UGA is an unconfined aquifer consisting of poorly sorted sands and gravels. The underlying Magothy consists of finer sands, silt and small amounts of clay.

At the site there are no other hydrogeologic units located between UGA and the underlying Magothy formation. In general, the upper surface of the Magothy formation is found at least 100 ft bgs. However, based on observations during installation of wells for this investigation, the Magothy is found at significantly shallower depths (60-70 ft bgs) in the NCIA than in many other areas of Long Island. The UGA and the Magothy are in direct hydraulic connection; however, clay lenses are often found in the upper Magothy in this area. Depth of water is about 53 ft bgs in the area of the site and groundwater flows in a southwesterly direction. Both the UGA and Magothy have been designated as sole-source aquifers and are protected under state and federal legislation.

4.1.2: Nature of Contamination:

As described in the FRI Report, soil and groundwater samples were collected at the site to characterize the nature and extent of contamination. The main categories of contaminants which exceed their SCGs are inorganics (metals) and VOCs. The inorganic contaminants of concern are arsenic, cadmium, nickel, mercury and iron. The volatile organic compounds of concern are TCE and xylene.

4.1.3: Extent of Contamination

The following are the media that were investigated and a summary of the findings of the investigation:

Soil

The site is covered almost entirely by either building or pavement. Only a small strip of grassy area exists in front of the building. All the contamination is beneath the paved areas and there is no contamination in the surficial soils.

A geoprobe was utilized to collect a total of sixty-nine soil samples at thirty different locations on-site. A majority of these probes were installed in the suspected location of a former cesspool which was found to be contaminated during the PSA. During the probing, bottom sludge samples from a drainage structure at 54 Kinkel Street, which abuts the site to the south, were collected and analyzed.

Nineteen (19) soil samples were collected and analyzed for metals and VOCs. These soil samples were collected at depths ranging from 9-10 feet to 22-24 feet below ground surface from the numerous geoprobe sampling locations within the abandoned cesspool source area.

Table 1 summarizes the extent of contamination for the contaminants of concern in the soils and compares the data with the SCGs for the site.

Arsenic, mercury and nickel were detected within the area of the cesspool. Arsenic was detected at levels up to 14 ppm, with two samples above the TAGM level of 7.5 ppm. Mercury was detected at levels up to 1.0 ppm, with eleven samples above the TAGM level of 0.1 ppm. Nickel was detected at levels up to 97 ppm, with two samples above the TAGM level of 13 ppm. Iron was detected in all nineteen soil samples collected at the site at levels up to 10,300 ppm, with sixteen above the TAGM level of 2,000 ppm.

Volatile organic soil contamination above the soil cleanup objectives (TAGM 4046) was found within the abandoned cesspool and in the sludges collected from the drainage structure at 54 Kinkel Street, which abuts the site to the south. TCE was detected above the soil cleanup objective of 0.7 ppm in two of the sixty-nine soil samples collected. These samples had values of 1.7 ppm and 3.5 ppm and were collected from the cesspool. In addition 2-butanone was detected in one sample at 0.34 ppm, above the soil cleanup objective of 0.3 ppm in the cesspool source area.

Xylene was detected in the two sludge samples collected in the drainage structure at 54 Kinkel Street at 1.2 ppm and 1.7 ppm, above the soil cleanup level of 1.2 ppm. Please refer to Figures 4 and 5.

Groundwater

The Department has been using a three-prong strategy in remediating Class 2 sites in the NCIA. The first action identifies source areas at each sit which will be removed or remediated; the second action includes the investigation and proper remediation of groundwater contamination at and beneath each site; and the third action is efforts by the Department which includes the ongoing detailed investigation of groundwater contamination that is migrating from all Class 2 sites in the NCIA. Upon completion of this comprehensive groundwater investigation, a remedy will be proposed to the public. After public review, a final groundwater remedy will be selected.

Table 2 summarizes the extent of contamination for the contaminants of concern in the groundwater and compares the data with the SCGs for the Site.

A total of seven wells were installed during the FRI. These included three shallow and four deep monitoring wells to determine the vertical distribution of the contaminants. The seven new monitoring wells and six existing monitoring wells were sampled and analyzed for volatile organics and metals.

The shallow wells were completed at about 60 feet bgs near the bottom of the upper glacial aquifer. The shallow groundwater flows in a southwesterly direction. The two shallow upgradient wells MW-201 and FLMW-204A had total VOC levels of 14 ppb and 26 ppb respectively. MW-201 had tetrachloroethylene (PCE) levels at 9 ppb, above the Groundwater Standard (GWS) of 5 ppb and FLMW-204A had trichloroethylene (TCE) levels at 7 ppb and PCE levels at 14 ppb, which are both above the GWS of 5 ppb for each compound. The shallow on-site monitoring well MW-202 located upgradient of the cesspool source area had levels of 1,1-dichloroethane (1,1-DCA) at 55 ppb, 1,2-trans dichloroethylene (1,2-trans DCE) at 8 ppb, 1,1,1-trichloroethane (1,1,1-TCA) at 49 ppb and PCE at 14 ppb. The shallow on-site monitoring well located downgradient of the cesspool source area DOAK MW-3 had levels of 1,2-trans DCE at 94 ppb, 1,1,1-TCA at 39 ppb TCE at 29 ppb and PCE at 10 ppb. These levels are higher than the GWS of 5 ppb for each individual compound. Three shallow monitoring wells Doak MW-1, MW-203 and Doak MW-2, which are located side gradient to the plume, had total VOCs at levels of 136 ppb, 120 ppb and 75 ppb respectively. The two shallow downgradient wells FLMW-205A and FLMW-206A had total VOCs at levels of 144 ppb, and 215 ppb respectively. FLMW- 205A had levels of 1,2-trans DCE at 98 ppb, and TCE at 36 ppb and FLMW- 206A had levels of 1,2-trans DCE at 110 ppb, 1,1,1-TCA at 38 ppb and TCE at 45 ppb. Please refer to Figure 6.

The deep wells were set into the top of the Magothy Aquifer about 110 feet bgs. The deeper groundwater flow tends to be in a more southerly direction than the shallow aquifer. The upgradient deep well FLMW-204B had total VOCs at 80 ppb, which consisted primarily of TCE at 35 ppb and PCE at 33 ppb. The deep on-site monitoring well FLMW-202B located upgradient of the cesspool source area had levels of TCE at 19 ppb and PCE at 38 ppb. The two deep downgradient wells FLMW-205B and FLMW-206B had total VOCs at levels of 340 ppb and 199 ppb respectively. FLMW-205B had levels at 1,2-trans dce 32 ppb, 1,1,1-TCA at 65 ppb, TCE at 99 ppb and PCE at 110 ppb. FLMW -206B had levels of 1,2-trans DCE at 23 ppb, TCA at 49 ppb, TCE at 34 ppb and PCE at 47 ppb. Please refer to Figure 7.

Both the shallow and deep groundwater monitoring wells indicate that the levels of groundwater contamination increase approximately three times as it passes under the site.

4.2: Summary of Human Exposure Pathways

This section describes the types of human exposures that may present added health risks to persons at or around the site. A more detailed discussion of the health risks can be found in Section 6.3 of the FRI Report.

An exposure pathway is how an individual may come into contact with a contaminant. The five elements of an exposure pathway are 1) the source of contamination; 2) the environmental media and transport mechanisms; 3) the point of exposure; 4) the route of exposure; and 5) the receptor population. These elements of an exposure pathway may be based on past, present, or future events.

Pathways which are known to or may exist at the site include:

- ingestion of soil. The site is covered by either pavement or building and hence, the ingestion pathway can not be completed. The Site Health and Safety Plan will address any potential exposure of construction workers to ingestion of site contaminants during the remediation of the site.
- inhalation of soil particles. The site is covered by either pavement or building and hence, the inhalation pathway can not be completed. The Site Health and Safety Plan will address any potential exposure of construction workers to inhalation of site contaminants during the remediation of the site. Also, the adjacent public may be exposed to fugitive emissions during construction. A Community Health and Safety Plan, which includes a community air monitoring plan would be implemented during site cleanup, to mitigate this potential exposure.
- ingestion of contaminated groundwater. An active supplemental treatment system is in place that prevents the completion of this exposure pathway. No known completed exposure pathways exist.

The contaminated groundwater at the Former LAKA Industries site, as well as in the entire NCIA, presents a potential route of exposure to humans. The area is served by public water, however, the underlying aquifer is the source of the water supply for the Bowling Green Water District customers. An air stripping treatment system was constructed in 1996 to mitigate the impact of the groundwater contamination on the Bowling Green public water supply wells. The Bowling Green water supply wells are routinely monitored for purity and quality. Presently, no site specific contaminants exceeding drinking water standards have been detected in water distributed to the public. Guard wells have been installed south of Old Country Road in locations downgradient of the NCIA inactive hazardous waste disposal sites and upgradient of the water supply wells as a precautionary measure. Therefore, use of the groundwater in the area is not currently considered to be an exposure pathway of concern.

4.3: Summary of Environmental Exposure Pathways

This section summarizes the types of environmental exposures which may be presented by the site. Due to the density of commercial and industrial buildings in the NCIA, there are no significant sources of surface water with close proximity to the Site. Virtually every open space in the industrial area has been covered by asphalt, concrete or buildings. As the industrial area is so highly developed no wildlife habitat exist in or near the Site. The nearest surface water sources are several small

ponds in and around Eisenhower Memorial Park, approximately two miles southwest of the site across Old Country Road.

Site-related contamination at the site is limited to the groundwater. The contaminated groundwater at the site, as well as in the entire NCIA, presents a potential route of exposure to the environment.

There are no known exposure pathways of concern between the contaminated groundwater and the environment. The potential for plants or animal species being exposed to site-related contaminants is highly unlikely.

SECTION 5: ENFORCEMENT STATUS

Potentially Responsible Parties (PRPs) are those who may be legally liable for contamination at a site. This may include past or present owners and operators, waste generators, and haulers.

The Potential Responsible Parties (PRP) for the site, documented to date, include:

- LAKA Tool & Stamping, Inc.
- LAKA Industries, Inc.
- DermKraft, Inc.

The PRPs declined to implement the FRI/FS at the site when requested by the NYSDEC. The PRPs will again be contacted to assume responsibility for the remedial program. If an agreement cannot be reached with the PRPs, the NYSDEC will refer the site for further action under the State Superfund. The PRPs would be subject to legal actions by the State for recovery of all response costs the State has incurred.

SECTION 6: SUMMARY OF THE REMEDIATION GOALS

Goals for the remedial program have been established through the remedy selection process stated in 6 NYCRR Part 375-1.10. The overall remedial goal is to meet all Standards, Criteria and Guidance (SCGs) and be protective of human health and the environment.

The Department has been using a three-prong strategy in remediating Class 2 sites in the NCIA. The first action identifies the source areas at each site which will be remediated or removed; the second action includes the investigation and proper remediation of groundwater contamination at and beneath each site; and the third action is the ongoing efforts by the Department which include a detailed investigation of groundwater contamination that is migrating from all Class 2 sites in the NCIA. Upon completion of this groundwater investigation, the Department will propose a remedy to the public. After public review, a final groundwater remedy will be selected.

At a minimum, the remedy selected will eliminate or mitigate all significant threats to public health and/or the environment presented by the hazardous waste disposed at the site through the proper application of scientific and engineering principles.

The goals selected for this site are:

- Removal of the source of the soil contamination.
- Eliminate, to the extent practicable, the source of hazardous waste and the migration of contamination into the groundwater.

SECTION 7: SUMMARY OF THE EVALUATION OF ALTERNATIVES

Potential remedial alternatives for the Site were identified, screened and evaluated in the letter report entitled "Former LAKA Industries Focused Feasibility Study" dated May 1999.

A summary of the detailed analysis follows. As presented below, the time to construct does not include the time required to design the remedy, procure contracts for design and construction or to negotiate with responsible parties for the design and construction of the remedy.

7.1: Description of Alternatives

The potential remedies are intended to address soil and sediments at the site. Even though, on-site groundwater is contaminated with 130 ppb to 198 ppb total VOCs, it is expected that after the removal of the source, groundwater quality would improve and hence, monitoring of groundwater quality is included as part of all remedial alternatives. Downgradient (off-site) groundwater contamination, which ranges from 144 to 340 ppb of total VOCs, will be addressed as a part of the overall investigation of groundwater contamination that is migrating from all Class 2 sites in the NCIA.

Alternative 1: No Action

The no action alternative is evaluated as a procedural requirement and as a basis for comparison. It requires continued monitoring only, allowing the site to remain in an unremediated state. This alternative would leave the Site in its present condition and would not provide any additional protection to human health or the environment. The Site would remain as a Class 2 site.

No active remediation is proposed to be undertaken. Soil samples would be collected semi-annually to monitor the impacted area to ensure that it does not migrate either horizontally or vertically and assess changes in the chemistry of the contaminants due to natural bio-degradation.

Groundwater quality would be monitored semi-annually for a period of five years by collecting groundwater samples from the six monitoring wells sampled during the FRI.

<i>Present Worth:</i>	\$ 82,850
<i>Capital Cost:</i>	\$ 0
<i>Annual O&M:</i>	\$ 19,125
<i>Time to Construct:</i>	None

Alternative 2: Excavation and Off-site Disposal

Alternative 2 would remove the contaminated soil by excavating the abandoned cesspool source area. Shoring and bracing would be required as the cesspool is adjacent to the on-site building. Soil in excess of the cleanup objectives were found in the abandoned cesspool at depths of approximately 15 to 22 ft bgs. The cesspool would be excavated to a depth of 25 feet and about 93 cubic yards of material would be removed and staged on-site. The excavated material would be analyzed to characterize it for proper off-site disposal. The resulting excavation would be backfilled with clean fill material.

The catch basin located at 54 Kinkel Street, abutting and downgradient of the site, would be remediated by utilizing a vacuum truck to extract approximately 4 cubic yards of contaminated sludges from the bottom of the structure (12 to 14 ft. bgs). The excavated material would be analyzed to characterize it for proper off-site disposal.

Groundwater quality would be monitored semi-annually for a period of at least two years by collecting groundwater samples from the six monitoring wells sampled during the FRI.

<i>Present Worth:</i>	\$ 68,529
<i>Capital Cost:</i>	\$ 59,229
<i>Annual O&M:</i>	\$ 5,000
<i>Time to Construct:</i>	2 months

Alternative 3: Soil Vapor Extraction

Alternative 3 would involve the installation of a soil vapor extraction system. Clean air would be forced down an injection well into the area of soil contamination, promoting the volatilization of the contaminants. An extraction well utilizing a vacuum would then draw the contaminated vapors from the soil to the ground surface. The contaminated vapors would pass through a carbon filter prior to being discharged to the atmosphere. At least four months of continuous operation of the system is estimated to complete the removal.

The catch basin located at 54 Kinkel Street, abutting and downgradient of the site, would be remediated by utilizing a vacuum truck to extract approximately 4 cubic yards of contaminated sludges from the bottom of the structure (12 to 14 ft. bgs). The excavated material would be analyzed to characterize it for proper off-site disposal.

Groundwater quality would be monitored semi-annually for a period of at least two years by collecting groundwater samples from the six monitoring wells sampled during the FRI.

<i>Present Worth:</i>	\$83,463
<i>Capital Cost:</i>	\$74,163
<i>Annual O&M:</i>	\$ 5,000
<i>Time to Construct:</i>	4 months

7.2: Evaluation of Remedial Alternatives

The criteria used to compare the potential remedial alternatives are defined in the regulation that directs the remediation of inactive hazardous waste sites in New York State (6 NYCRR Part 375). For each of the criteria, a brief description is provided, followed by an evaluation of the alternatives against that criterion. A detailed discussion of the evaluation criteria and comparative analysis is included in the Focused Feasibility Study.

1. Compliance with New York State Standards, Criteria, and Guidance (SCGs).

Compliance with SCGs addresses whether or not a remedy will meet applicable environmental laws, regulations, standards, and guidance.

The soil contamination found in the abandoned cesspool source area exceeds the cleanup standards in TAGM #4046- Determination of Soil Cleanup Objectives and Cleanup Levels. Alternative 1 would not reduce the soil contamination below the cleanup levels, although the VOCs may biodegrade over a protracted period of time, the metals levels would remain the same. Alternative 3 would reduce VOCs contamination, however some of the metal contamination would still remain at the site. Alternative 2 would reduce the VOCs and metals contamination below the soil cleanup levels.

2. Protection of Human Health and the Environment.

This criterion is an overall evaluation of each alternative's ability to protect public health and the environment.

Alternative 1 offers the least protection to human health and the environment, relying on natural biodegradation to reduce the level of contamination.

Alternative 3 offers moderate protection of the environment and public health. Alternative 2 offers the greatest protection to public health and the environment by removing the source of contamination.

3. Short Term Effectiveness.

The potential short term adverse impacts of the remedial action upon the community, the workers, and the environment during the construction and/or implementation are evaluated. The length of time needed to achieve the remedial objectives is also estimated and compared against the other alternatives.

Alternative 1 offers no short term effectiveness. Alternative 3 offers good short term effectiveness in that the majority of the contamination would be removed during the early stages of the operation. Alternative 2 offers the greatest short term effectiveness by eliminating the source of contamination; however, during the construction, on-site workers and the adjacent public may be exposed to fugitive dust. The Health and Safety Plan and Community Air Monitoring would mitigate this problem.

4. Long Term Effectiveness and Permanence.

This criterion evaluates the long term effectiveness of the remedial alternatives after implementation. If wastes or treated residuals remain on site after the selected remedy has been implemented, the following items are evaluated: 1) the magnitude of the remaining risks, 2) the adequacy of the controls intended to limit the risk, and 3) the reliability of these controls.

Alternative 1 offers little long term effectiveness. VOCs would be bio-degraded over time, however this may increase the levels of the breakdown compounds in the soil and groundwater. The metals would continue to remain at the site. Alternative 3 would offer good long term effectiveness for VOCs contamination, however would have little effectiveness with the metal contamination. Alternative 2 offers good long term effectiveness for both VOCs and metal contamination.

5. Reduction of Toxicity, Mobility or Volume.

Preference is given to alternatives that permanently and significantly reduce the toxicity, mobility or volume of the wastes at the site.

Alternative 1 offers no reduction in toxicity, mobility and volume. Alternative 3 offers a reduction in toxicity, mobility and volume of organic soil contamination, however not for metals. The radial influence would depend on the system design and the existence of concrete walls of the abandoned cesspool. Alternative 2 offers the greatest reduction in toxicity, mobility and volume of the waste at the site. Excavation within the walls of the cesspool would remove all contaminants that remain in the cesspool.

6. Implementability.

The technical and administrative feasibility of implementing each alternative are evaluated. Technical feasibility includes the difficulties associated with the construction and the ability to monitor the effectiveness of the remedy. For administrative feasibility, the availability of the necessary personnel and material is evaluated along with potential difficulties in obtaining specific operating approvals, access for construction, etc.

Alternative 3 may be moderately difficult to implement. The soil vapor extraction system requires recurring operation and maintenance attention. Alternative 2 may be moderately difficult to implement depending upon site logistics and the existence of unknown underground structures. Alternative 1 is the easiest to implement requiring only the collection of soil and groundwater samples.

7. Cost.

Capital and operation and maintenance costs are estimated for each alternative and compared on a present worth basis. Although cost is the last balancing criterion evaluated, where two or more alternatives have met the requirements of the remaining criteria, cost effectiveness can be used as the basis for the final decision.

Alternative 1 and Alternative 3 have similar estimated present worth of cost \$ 82,850 and \$ 83,463, respectively. Alternative 2 at an estimated present worth cost of \$ 68,529 is approximately 16 % less than either of the other two alternatives.

8. Community Acceptance

Concerns of the community regarding the FRI/FFS reports and the Proposed Remedial Action Plan have been evaluated. The "Responsiveness Summary" included as Appendix A presents the public comments received and the Department responses to the concerns raised. No significant comments were received.

SECTION 8: SUMMARY OF THE SELECTED REMEDY

The Department has been using a three-prong strategy in remediating Class 2 sites in the NCIA. In accordance with this strategy, first, the Department selected excavate and remove the sources of soil contamination at the Former LAKA Industries site; second, groundwater contamination at and beneath the site was investigated and determined that groundwater contamination at the site ranges from 130 to 198 ppb of total VOCs. Even though this exceeds the SCGs, the Department believes that after the removal of the source, groundwater quality will improve at and beneath the site, hence on-site groundwater will be monitored for a period of at least two years; third, the Department is currently conducting a detailed investigation of groundwater contamination that is migrating from all Class 2 sites, including the Former LAKA Industries site, in the NCIA. Upon completion of this groundwater investigation, a remedy will be proposed to the public. After public review, a final groundwater remedy will be selected.

Based upon the results of the FRI/FFS, and the evaluation presented in Section 7, the NYSDEC selected Alternative 2, Excavation and Off-site Disposal, as the remedy for this site. This selection is based upon the evaluation of the three alternatives developed for this site. With the exception of the no action alternative, each of the alternatives would comply with the threshold criteria. In addition, each of the remaining alternatives are similar with respect to the majority of the balancing criteria. The major differences between Alternatives 2 and 3 are permanence and costs. Alternative 2, Excavation and Off-site Disposal, will provide permanence by removing the source of both VOCs and metals contamination, while Alternative 3, Soil Vapor Extraction, would result in the metal contamination remaining on-site. Alternative 1 and Alternative 3 costs are approximately the same, while Alternative 2 will cost 16 % less than either of the other Alternatives.

Thus Alternative 2, Excavation and Off-site Disposal, will be protective of human health and the environment, provide a permanent solution for the soil contamination, provide both short term and

long term effectiveness and be the least costly. Although, on-site groundwater is contaminated with 130 ppb to 198 ppb total VOCs, it is expected that after the removal of the contaminant source, groundwater quality will improve; and hence, monitoring of groundwater quality is selected. The monitoring results will be reviewed annually to determine whether additional actions are necessary. Downgradient (off-site) groundwater contamination ranges from 144 to 340 ppb of total VOCs. This downgradient (off-site) groundwater contamination will be addressed as a part of the overall investigation of the groundwater contamination that is migrating from all Class 2 sites in the NCIA. The estimated present worth cost to implement the selected remedy is \$ 68,529. The cost to construct the remedy is estimated to be \$ 59,229. The contaminated soil will be removed and disposed off-site and groundwater quality will be monitored on a semi-annual basis.

The elements of the selected remedy are as follows:

1. A remedial design program to verify the components of the conceptual design and provide the details necessary for the construction, and monitoring of the remedial program. Any uncertainties identified during the FRI/FFS will be resolved.
2. The Excavation and Off-site Disposal Alternative will involve the following elements:
 - The hand excavation of the first four feet of soil to locate any underground utilities and structures.
 - Installation of shoring and bracing to protect the existing building during excavation.
 - Excavation to a depth of 25 feet using appropriate excavation equipment to remove contaminated soils.
 - Confirmatory soil samples will be collected at bottom of the excavation to insure that all soils above the TAGM values were removed.
 - Excavated soils will be staged and soil samples collected and analyzed to determine the proper method of off-site disposal and treatment, if necessary.
 - Backfill of the excavation with clean fill material.
 - Extract the contaminated sludges from the bottom of the catch basin located at 54 Kinkel Street by utilizing a vacuum truck. The sludge will be analyzed to determine the proper method of off-site disposal and treatment, if necessary.
 - Semi-annual groundwater monitoring of four shallow and two deep monitoring wells, for at least two years, to measure quality improvements resulting from the removal of the source of contamination. The monitoring results will be reviewed annually to determine whether additional actions are necessary.
 - Implementation of institutional controls and the recording of deed restrictions to restrict the future use of groundwater at the site.

- Downgradient (off-site) groundwater contamination will be addressed as a part of the overall investigation of the groundwater contamination that is migrating from all Class 2 sites in the NCIA.

SECTION 9: HIGHLIGHTS OF COMMUNITY PARTICIPATION

As part of the remedial investigation process, a number of Citizen Participation activities were undertaken in an effort to inform and educate the public about conditions at the site and the potential remedial alternatives. The following public participation activities were conducted for the site:

- Four repositories for documents pertaining to the site were established.
- A site mailing list was established for the New Cassel Industrial Area, in which the site is located. The mailing list includes nearby property owners and residences, local political officials, New Cassel Environmental Justice Project, local community groups, local media and other interested parties.
- Fact sheets were distributed, prior to each public meeting, detailing the remedial activities at the New Cassel Industrial Area and specifically the Former LAKA Industries site. Public meetings were held on March 1996, October 1996, May 1997, December 1997, May 1998, December 1998, May 1999 and September 1999.
- Details of the remedial investigation were first presented to the public at the May 1999 public meeting. The PRAP was presented at the September 30, 1999 public meeting held at the East Meadow High School, 101 Carman Avenue, East Meadow, New York. The public comment period began on September 13, 1999 and ended on October 13, 1999.
- In October, 1999 a Responsiveness Summary was prepared and made available to the public to address the comments received during the comment period for the PRAP.

Table 1
Nature and Extent of Contamination Soils
Focused Remedial Investigation, dated November 1998
Parts per Million (ppm)

MEDIA	CLASS	CONTAMINANT OF CONCERN	CONCENTRATION RANGE (ppm)	FREQUENCY EXCEEDING SCGs	SCGs (ppm)
Soils	Volatile Organic Compounds (VOCs)	Trichloroethylene	ND to 3.5	2 of 69	0.7
		2- Butanone	ND to 0.34	1 of 69	0.3
Sludges (Catch basin at 52 Kinkel St.)	Volatile Organic (VOCs) Compounds	Ethylbenzene	0.63	0 of 2	5.5
		Xylene	1.2 to 1.7	2 of 2	1.2
Soils	Metals	Arsenic	ND to 14.0	2 of 19	7.5
		Cadmium	ND to 1.6	0 of 19	10.0
		Mercury	ND to 1.0	11 of 19	0.1
		Nickel	ND to 97.0	2 of 19	13.0
		Iron	57 to 10,300	16 of 19	2,000

Note: ND - non-detect
SCGs - standards, criteria, and guidance

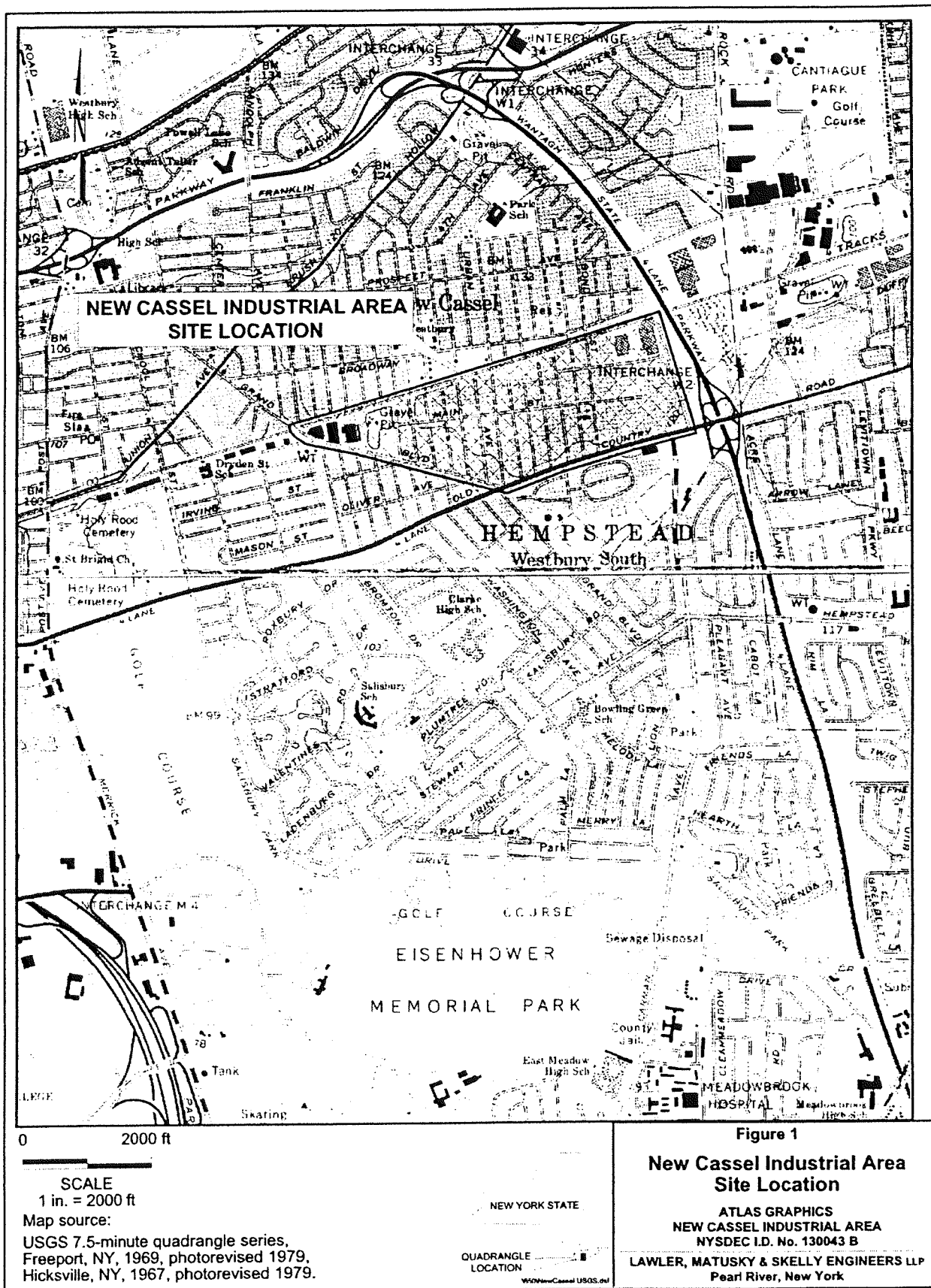
Table 2
Nature and Extent of Contamination Groundwater
Focused Remedial Investigation, dated November 1998
Part per Billion (ppb)

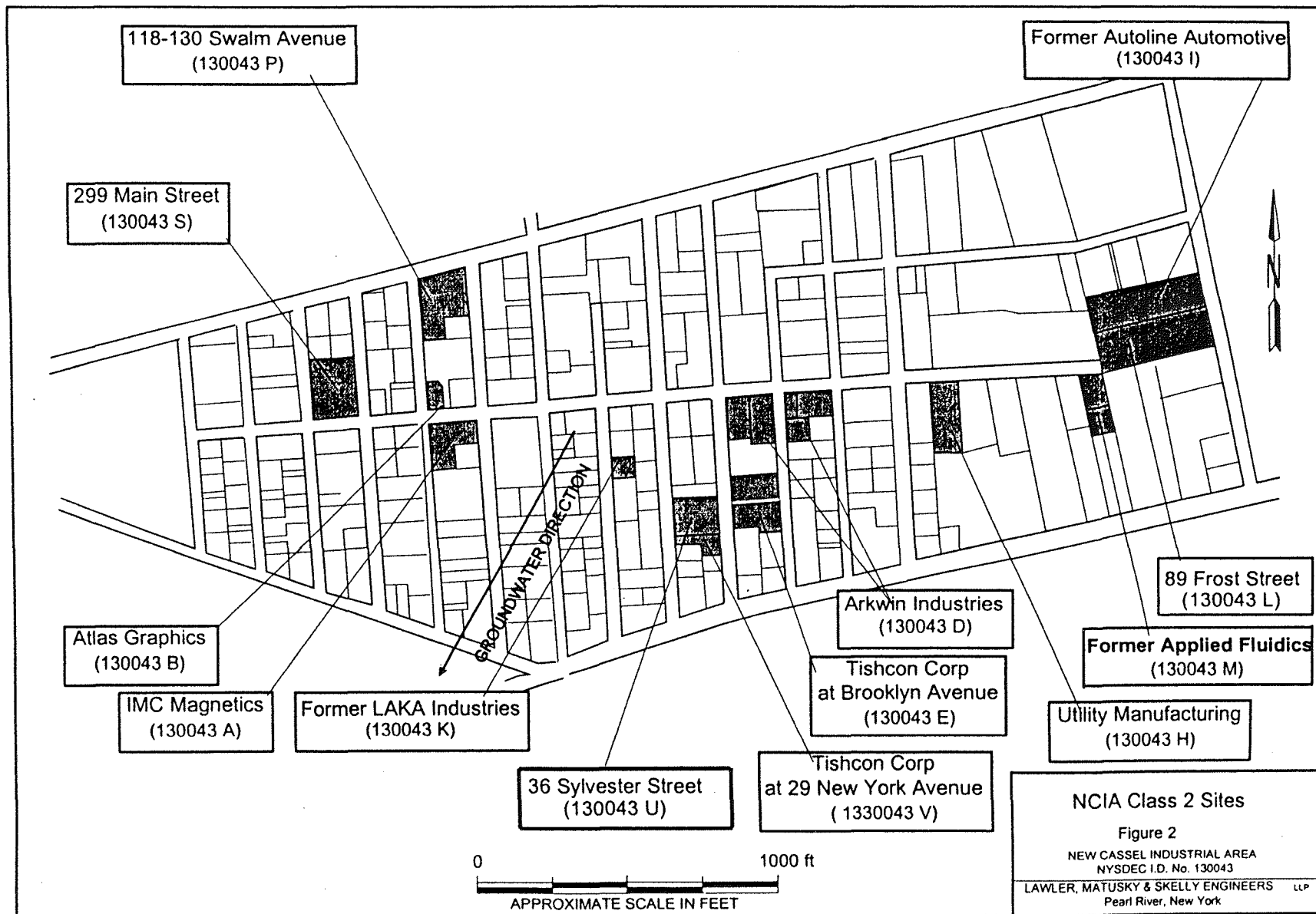
	Well Number	1,1-DCE	1,1-DCA	1,2-DCEt	1,1,1-TCA	TCE	PCE	Total VOCs
Upgradient	MW-201	ND	ND	ND	3.0	2.0	9.0	14.0
	FLMW-204 A	ND	ND	ND	5.0	7.0	14.0	26.0
	FLMW-204 B	1.0	ND	6.0	5.0	35.0	33.0	80.0
	Conc. Range	ND to 1	ND	ND to 6	3.0 to 5.0	2.0 to 35.0	9.0 to 33.0	14 to 80
On-site	MW-202	ND	55.0	8.0	49.0	4.0	14.0	130.0
	FLMW-202 B	ND	ND	2.0	3.0	19.0	38.0	62.0
	DOAK MW-3	1.0	25.0	94.0	39.0	29.0	10.0	198.0
	Conc. Range	ND to 1.0	ND to 55.0	2.0 to 94.0	3.0 to 49.0	4.0 to 29.0	10.0 to 38	62 to 198
Side Gradient	DOAK MW-1	8.0	6.0	7.0	53.0	6.0	56.0	136.0
	MW-203	ND	8.0	66.0	21.0	14.0	11.0	120.0
	DOAK MW-2	4.0	8.0	1.0	43.0	4.0	15.0	75.0
	Conc. Range	ND to 8.0	6.0 to 8.0	1.0 to 66	21 to 53	4.0 to 14.0	11 to 56	75 to 136
Downgradient	FLMW-205 A	ND	ND	98.0	7.0	36.0	3.0	144.0
	FLMW-205 B	21.0	13.0	32.0	65.0	99.0	110.0	340.0
	FLMW-206 A	2.0	12.0	110.0	38.0	45.0	8.0	215.0
	FLMW-206 B	18.0	28.0	23.0	49.0	34.0	47.0	199.0
	Conc. Range	ND to 21	ND to 28	23 to 110	7 to 65	34 to 99	3 to 110	144 to 340
Standards, Criteria & Guidance		5	5	5	5	5	5	Not Applicable

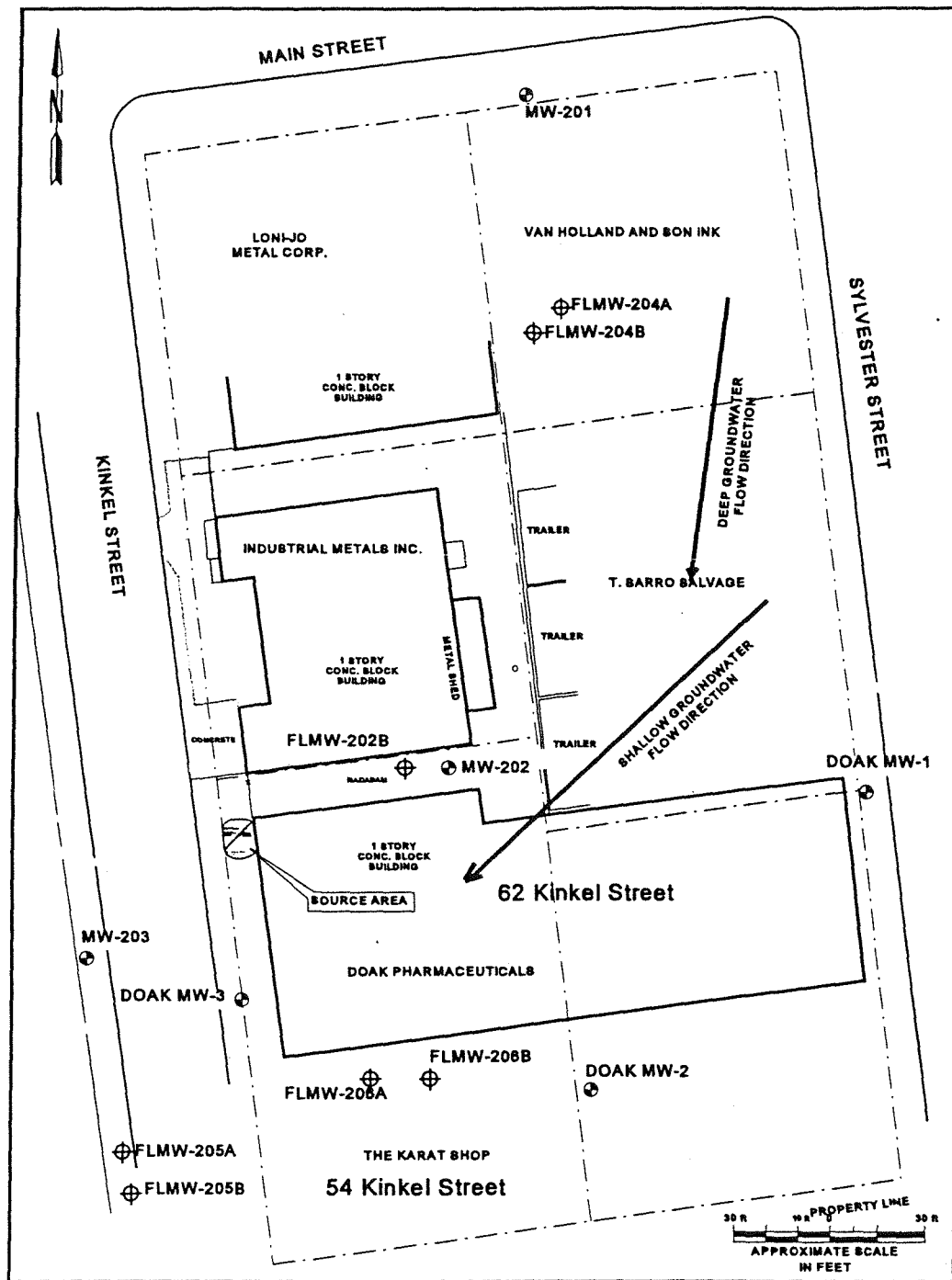
Legend: ND - Non-Detect
1,1-DCE = 1, 1 Dichloroethylene 1,1-DCA = 1,1-Dichlorethane 1,2- DCEt = 1,2-Dichloroethylene (total)
TCE = Trichloroethylene PCE = Tetrachloroethylene total VOCs = Total Volatile Organic Compounds

Table 3
Remedial Alternative Costs

Remedial Alternative	Capital Cost	Annual O&M	Total Present Worth
Alt. # 1 No Action	\$0	\$ 19,125	\$ 82,850
Alt. # 2 Excavation & Off-site Disposal	\$59,229	\$ 5,000	\$ 68,529
Alt. # 3 Soil Vapor Extraction	\$ 74,163	\$ 5,000	\$ 83,463







Legend

- ⊕ Existing monitoring well
- ⊕ New monitoring well
- A = Shallow well
- B = Deep well

LMS Lawler, Matuskis & Skelly Engineers LLP
One Blue Hill Plaza • Pearl River, New York 10965
ENVIRONMENTAL SCIENCE & ENGINEERING CONSULTANTS

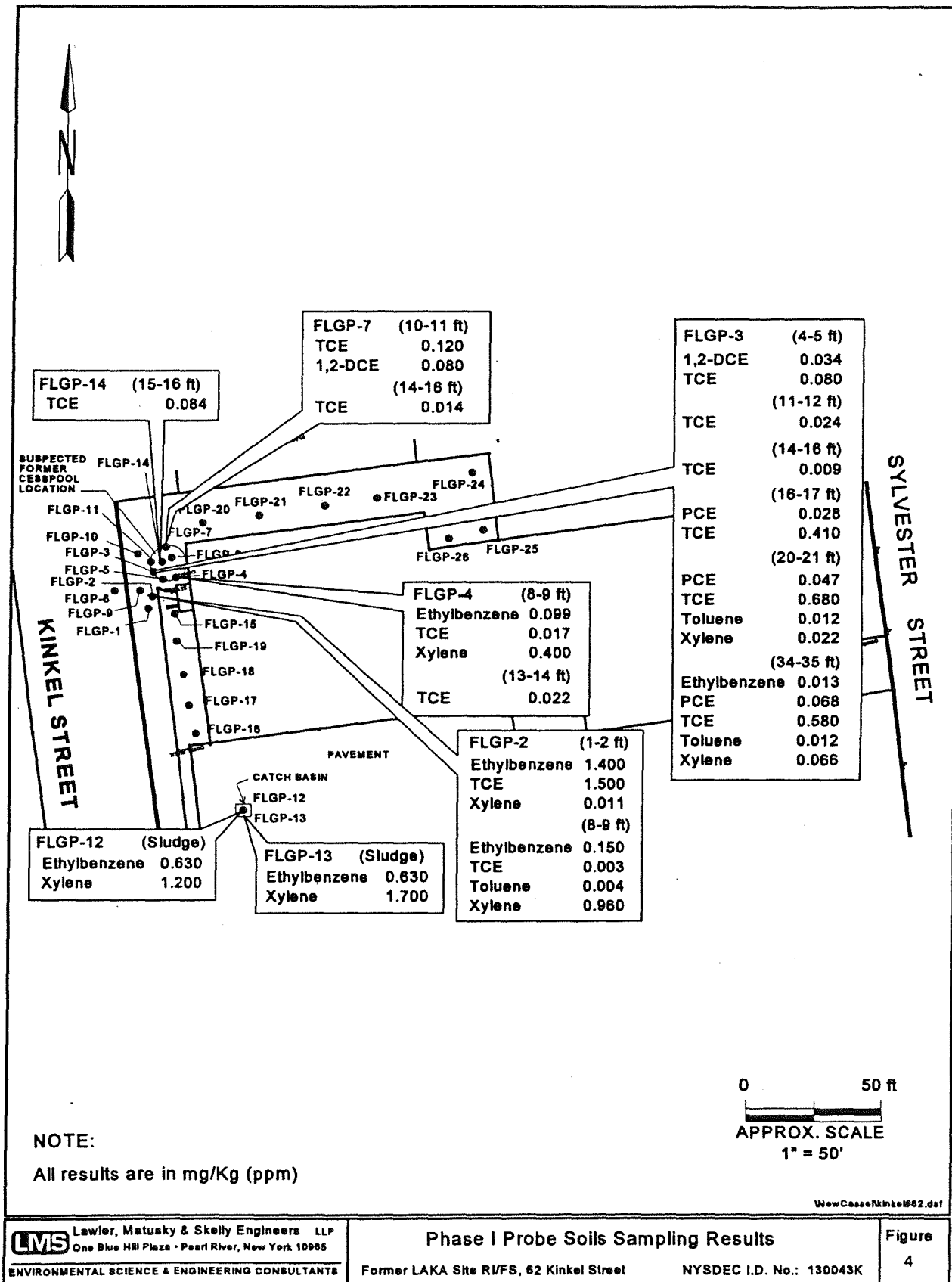
Monitoring Locations

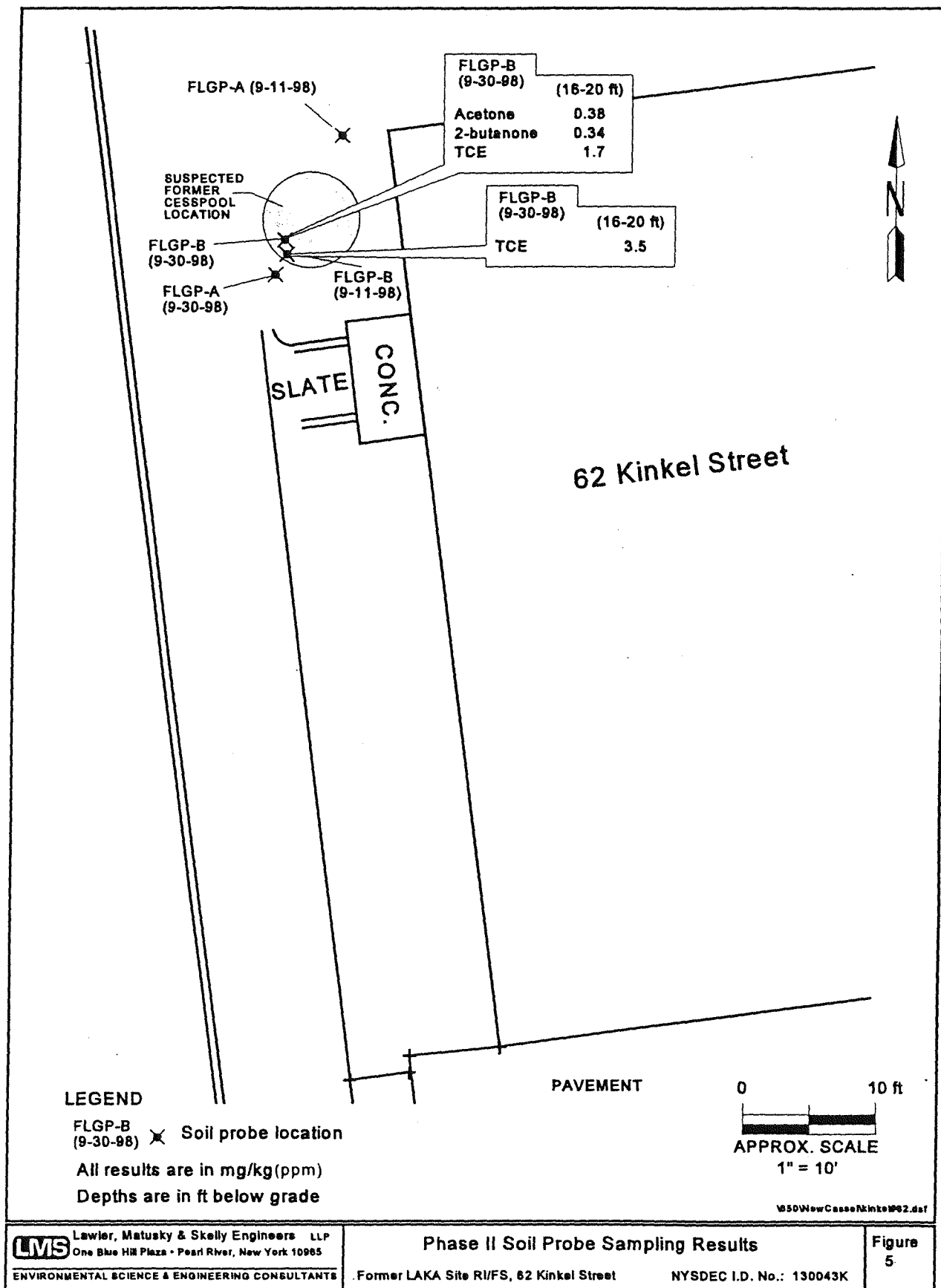
Former LAKA Site RI/FS, 62 Kinkel Street

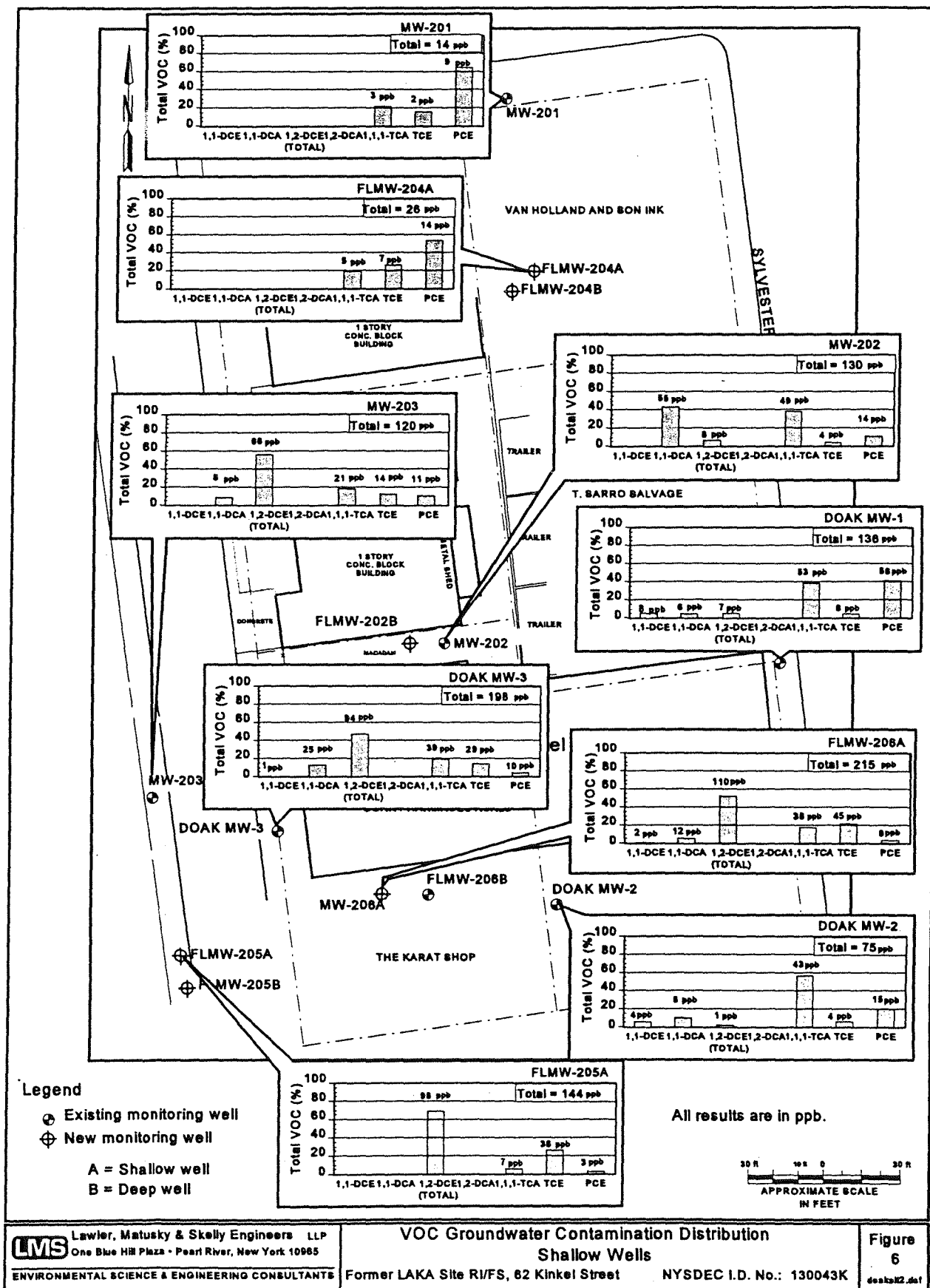
NYSDEC I.D. No.: 130043K

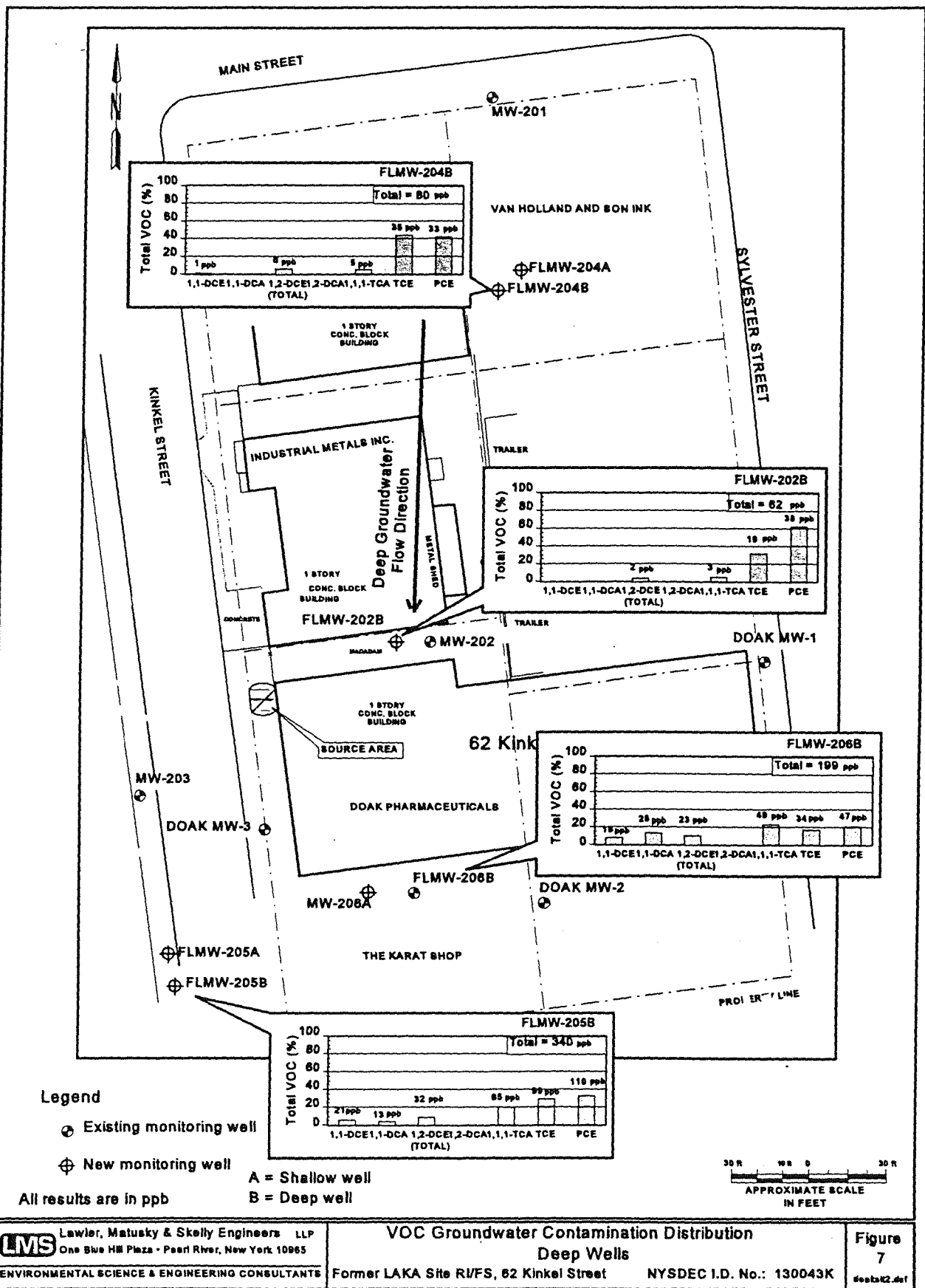
Figure
3

doakm2.dxf









APPENDIX A

Responsiveness Summary

RESPONSIVENESS SUMMARY

FORMER LAKA INDUSTRIES, INC.

Record of Decision

Town of North Hempstead, Nassau County

Site No. 1-30-043 K

Operable Unit - 01: On-site Soil & Groundwater

The Proposed Remedial Action Plan (PRAP) for the Former LAKA Industries, Inc site, was prepared by the New York State Department of Environmental Conservation (NYSDEC) and issued to the local document repository on September 13, 1999. This Plan outlined the preferred remedial measure proposed for the remediation of the contaminated soil and sediment at the Former LAKA Industries, Inc. site. The preferred remedy is excavation of the on-site abandoned cesspool and the vacuum extraction of the sludge from the downgradient catch basin and proper off-site disposal of the waste material.

The release of the PRAP was announced via a notice to the mailing list, informing the public of the PRAP's availability.

A public meeting was held on September 30, 1999, which included a presentation of the Focused Remedial Investigation (FRI) and the Feasibility Study (FS) as well as a discussion of the proposed remedy. The meeting provided an opportunity for citizens to discuss their concerns, ask questions and comment on the proposed remedy. These comments have become part of the Administrative Record for this site. No written comments were received from the public.

The public comment period for the PRAP ended on October 13, 1999.

Several questions were raised regarding odors and dust from Jamaica Ash, a solid waste facility located in the western part of the New Cassel Industrial Area (NCIA). The public was referred to contact Mr. Anthony Cava or Mr. Stanley Farkas of the NYSDEC's Region 1 office in Stony Brook.

This Responsiveness Summary responds to all questions and comments raised at the September 30, 1999 public meeting.

The following are the comments received at the public meeting, with the NYSDEC's responses:

Comment 1. You have stated that groundwater in the New Cassel Industrial Area is contaminated. Is my family drinking contaminated groundwater?

Response 1. You are not drinking contaminated groundwater. The water that is delivered to consumers from the Town of Hempstead Department of Water is drawn from a depth in excess of five hundred feet below the ground surface, well below the level at which the greatest levels of contamination are found (high levels of contamination are detected at depths of fifty to one hundred and twenty feet below ground surface). The pumped out water is then treated by an air stripper followed by carbon filtration to remove any contaminants. The water is also tested at regular intervals to ensure that the water meets drinking water standards before it is distributed to consumers.

Comment 2. Water from my faucet has at times been turbid and discolored, especially when there have been excavations involving water mains near my house. Is it possible that contaminated groundwater has entered the water delivery system, and that I have consumed contaminated groundwater?

Response 2. The water mains are located approximately four to six feet below the ground surface. The water table in the New Cassel Industrial Area and the surrounding residential areas is a minimum of fifty feet below the ground surface. Even if the water mains were broken, it would not be possible for the groundwater to contaminate them. The discoloration that you have observed is more likely to be due to iron oxide originating within the system.

Comment 3 What is a Consent Order?

Response 3. In the New York State Inactive Hazardous Waste Disposal Site program, a Consent Order is an agreement between the responsible party and the Department to conduct a remedial activity for a site such as an investigation, feasibility study, remedial design or construction. Once the agreement is executed the responsible party performs the remedial activity and the Department provides staff oversight of field work and reviews all reports, making sure that the work was performed in accordance with Department procedures. The Department staff make sure that the personnel performing the work are qualified and that the samples are properly collected.

Comment 4. Did the Department consider other alternatives at the Former LAKA site?

Response 4. The Department also considered the No Action and Soil Vapor Extraction (SVE) alternatives which are presented in the PRAP and the ROD as Alternatives 1 and 3. The selected remedy, excavation and off-site disposal was found to be the most effective, as it will remediate both the VOC and metal contamination, and is also the least costly of the alternatives considered.

Comment 5. When will the site be remediated?

Response 5. The responsible party will be offered the opportunity to implement the selected remedy under a Consent Order with the Department. Should the responsible party be unwilling to perform the work, the Department will implement the selected remedy using state superfund money. Under either scenario, construction of the selected remedy should be completed by the end of year 2000.

APPENDIX B

Administrative Record

ADMINISTRATIVE RECORD

FORMER LAKA INDUSTRIES, INC. Proposed Remedial Action Plan Town of North Hempstead, Nassau County Site No. 1-30-043 K

- 1.. New York State Superfund Contract, Field Activities Plan, Former LAKA Site (Site No. 1-30-043 K) Work Assignment No. D 002676-27.1, Lawler, Matusky & Skelly Engineers, March 1997.
2. New York State Superfund Contract, Focused Remedial Investigation Report, Former LAKA Industries Site, Work Assignment No. D 002676-27.1, Lawler, Matusky & Skelly Engineers, November 1998.
3. New York State Superfund Contract, Focused Feasibility Report, Former LAKA Industries Site, Work Assignment No. D 002676-27.1, Lawler, Matusky & Skelly Engineers, May 1999.

Exhibit H

**NIXON PEABODY LLP**

ATTORNEYS AT LAW

990 Stewart Avenue
Garden City, New York 11530-4838
(516) 832-7500
Fax: (516) 832-7555
Direct Dial: (516) 832-7541
E-Mail: mtone@nixonpeabody.com

August 7, 2003

VIA FACSIMILE AND REGULAR MAIL

Mr. Eugene Cock
GCC Land Development
59 New York Avenue
Westbury, New York 11590

**RE: GCC Land Development
Former LAKA Industries Site**

Dear Gene:

This letter is to follow up on our telephone conversation of yesterday wherein we discussed the lender liability exemption under the Comprehensive Environmental Response Liability Act of 1980, as amended ("CERCLA") (the Federal Superfund Law). Enclosed is a memorandum prepared by Denise Pursley, Esq. which discusses the results of her research into the issues raised by the New York State Department of Environmental Conservation ("DEC") Attorney Alali Tamuno.

As I mentioned to you, the State of New York, when seeking to recover costs incurred to address State Superfund Sites such as the former LAKA Industries, Inc. Site, usually will commence a cost recovery action in federal court under CERCLA, which provides a statutory cause of action for cost recovery. (New York State's Superfund Law, Environmental Conservation Law Article 27, Title 13, does not provide such a cause of action.) As the enclosed memo discusses, federal CERCLA was amended in 1996 by the Asset Conservation, Lender Liability and Deposit Insurance Protection Act of 1996. In short, that amendment established exemption from strict, joint, and severally liability provisions of CERCLA for those persons (including successors and assigns) that make a *bona fide* extension of credit or take or acquire a security interest in contaminated property from a non-affiliated person.

Under the Lender Liability Protection Act of 1996, GCC Land Development qualifies as a "lender," and thus, may be exempt from liability under the "secured creditor exemption" if it takes title to the property in the foreclosure sale. To obtain the benefit of the secured creditor exemption, however, GCC Land Development must meet the additional requirement of seeking to sell or otherwise divest itself of the property at the earliest, practical,

NIXON PEABODY LLP

Mr. Eugene Cook
August 7, 2003
Page 2

commercially reasonable time and on commercially reasonable terms. Contrary to Ms. Tamuno's assertion, the value of the property at the time of the sale by GCC Land Development and the actual sales price would not necessarily impair GCC Land Development's exemption, provided that the actual sales price is commercially reasonable.

As I mentioned, New York's Environmental Conservation Law does not establish a similar lender liability exemption. Generally, however, New York's practice is to proceed under CERCLA which does provide for the exemption. This would not preclude the State from attempting to assert a claim based on common law indemnification or other theory, but that has not been the practice of the Attorney General in the past.

If you have any questions, please feel free to call.

Very truly yours,



Michael J. Tone

cc: Brian Seltzer, Esq. *(via facsimile and regular mail)*
Denise Pursley, Esq. *(w/o enclosure)*

Nixon Peabody LLP**Office Memorandum**

TO: Mike Tone

FROM: Denise D. Pursley

DATE: August 1, 2003

RE: GCC Land Development
Potential Liability under CERCLA

You have asked me to research whether GCC Land Development will be able to avail itself of the exemption from liability under the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), afforded secured creditors pursuant to the Asset Conservation, Lender Liability and Deposit Insurance Protection Act of 1996 ("Lender Liability Act").

1. **Definition of "Lender" under the Lender Liability Act**

Pursuant to the Lender Liability Act, the definition of "Lender" includes, among others,

any person (including a successor or assignee of such person) that makes a bona fide extension of credit to or takes or acquires a security interest from a non-affiliated person

42 U.S.C. § 9601 (20) (G) (iv) (V). The term "person" includes both individuals, firms, corporations, associations and partnerships. Id. at § 9601 (21).

It is our understanding that GCC Land Development purchased from a insured depository institution a loan secured by a mortgage against real property located in Westbury, New York. As a successor or assignee of a "person" that acquired a security interest from a non-affiliated person, GCC Land Development is a "lender" under the Lender Liability Act.

2. **Foreclosure**

GCC Land Development has instituted foreclosure proceedings as a result of a default under the mortgage. It is our understanding that GCC Land Development intends to bid on the property at the foreclosure sale. Under the Lender Liability Act, a "lender's" acquisition of collateral will not cause the lender to be outside the scope of the secured creditor exemption so long as the lender's acquisition is temporary and the lender seeks to sell or otherwise divest itself of a foreclosed property in a timely fashion. The Lender Liability Act excludes from the definition of "owner or operator" a lender that did

not participate in management prior to foreclosure, provided that, after foreclosure, the lender "seeks to sell, re-lease (in the case of lease finance transaction), or otherwise divest itself of the facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements." *Id.* at § 9601 (20) (E). The Lender Liability Act differs from the former EPA rule by eliminating the "bright line test" which required a lender to advertise the facility as being for sale within twelve months after acquisition in the foreclosure sale.

What constitutes "commercially reasonable time" and "commercially reasonable terms" is a question of fact for the court. For example, in United States of America v. Odabashian, 1999 U.S. Dist. LEXIS 23200 (W.D. Tenn. Mar. 22, 1999), *recon. denied*, 2000 U.S. Dist. LEXIS 22193 (W.D. Tenn. Feb. 7, 2000), the Court granted the lender's motion for summary judgment because, as a lender, it was statutorily exempted from liability under CERCLA. The court rejected the third party plaintiff's argument that the exemption did not apply because the lender failed to sell the foreclosed property in a commercially reasonable time. There, the lender foreclosed on the property in 1985 and immediately purchased the property at the foreclosure sale for the amount of the debt. Six days later, the lender had the property appraised and within a month contacted a real estate broker to list the property for sale. The property was listed for sale less than three months after the foreclosure sale, but remained on the market for almost three years until it was finally purchased.

The court found that the Lender Liability Act only requires parties to "seek" to divest themselves of foreclosed property "at the earliest practicable, commercially reasonable time." 42 U.S.C. § 9601 (20) (E) (ii). The court rejected the assertion that the property must actually be sold within a commercially reasonable time. Further, even assuming that the property had to be sold within a commercially reasonable time, the court found that "taking into account market conditions" as required under the Act, a period of three years and ten months was commercially reasonable.

Based upon the foregoing, and assuming that GCC Land Development is the successful bidder at the foreclosure sale, we recommend that it promptly obtain an appraisal of the property and retain a broker to actively market the property. All steps taken to appraise, market and sell the property should be documented in writing. If these steps are taken within a commercially reasonable period, GCC Land Development should qualify for the secured creditor exemption under the Lender Liability Act.

3. Lender's Motivation An Issue

While the purchase of property at a foreclosure sale does not disqualify a lender from the secured creditor exemption per se, courts have considered the motive of the purchaser in determining whether the secured creditor exemption applies. For example, in United States v. McLamb, 5 F. 3d 69, 72 (4th Cir. 1993), Wachovia Bank foreclosed on property after a default on the loan and took title as the sole bidder. The appellants asserted that Wachovia Bank could not rely on the security interest exemption because, as a result of the foreclosure sale, the bank became the owner of the property for at least several months and was no longer holding "indicia of ownership primarily to protect its security interest". The court rejected this argument, and indeed the Lender Liability Act promulgated three years after this decision, clarified this point. Interestingly, however, the court stated that a bank could lose its secured creditor exemption if its purchase of the property at a foreclosure sale was motivated by investment or profit and not to protect its security interest. *Id.* This sentiment was also noted by the court in United States v. Odabashian, 1999 U.S. Dist. LEXIS 23200, a post Lender Liability Act case.

The lender's motive in foreclosing on property was also at issue in DuFrayne v. FTB Mortgage Services, Inc., 194 B.R. 354 (1996). The issue in DuFrayne was whether FTB held indicia of ownership, i.e. a mortgage, primarily to protect its security interest in the property. The debtors argued that FTB was primarily motivated not by an intent to protect its security interest in the property, but rather by an intent to improperly benefit from the EPA sponsored clean up. The facts of the DuFrayne case are similar to the facts at issue here in that FTB purchased its interest in the mortgage from the original lender, after the environmental problems were discovered and the Record of Decision determining the remediation plan had been established. The court held that FTB qualified for the secured creditor exemption because FTB did not actually exercise its right to foreclose on the property and therefore, its actual stake in the value of the property was still limited to the amount secured by the mortgage. The fact that FTB acquired its interest in the mortgage at a discount in the secondary market was held not to affect the secured creditor exemption.

The court in DuFrayne distinguished the facts of that case with those in United States v. Maryland Bank and Trust Company, 632 F. Supp. 573 (D. MA. 1986) which was relied upon by the debtors. The District Court held against MB&T because it purchased the property at the foreclosure sale and held title for nearly four years, and a full year before the EPA clean up. The court relied on the fact that MB&T did not hold indicia of ownership to protect its security interest at the time of the clean up, since it had already foreclosed and became the record owner at that time. Reliance on this case is cautioned, however, since it pre-dates the Lender Liability Act by approximately ten years.

Conclusion

GCC Land Development constitutes a "lender" under the Lender Liability Act. As a "lender" GCC Land Development can be exempt from liability under the secured creditor exemption even if it takes title to the property in the foreclosure sale, provided, however that GCC Land Development seeks to sell or otherwise divest itself of the property at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal regulatory requirements. The value of the property at the time of the sale by GCC and the actual sales price should not be an issue as long as it is commercially reasonable.

Exhibit I

New York State Department of Environmental Conservation
Division of Environmental Remediation
Remedial Bureau A
625 Broadway, 11th Floor
Albany, New York 12233-7015
Phone: (518) 402-9625 • **Fax:** (518) 402-9020 / (518) 402-9627
Website: www.dec.ny.gov



Certified Mail
Return Receipt Requested

FEB 19 2008

Sylvester Street Holdings LLC
67 Sylvester St.
Westbury, NY 11590

Re: Former Laka Industries Property
Site No. 1-30-043K
North Hempstead, New York

Dear Sir or Madame:

The New York State Department of Environmental Conservation (Department) is preparing to carry out Environmental Sampling at the Former Laka Industries site; Site No. 1-30-043K located in the Village of North Hempstead. Our records indicate that you are the owner of this property located within the site area identified on the County of Nassau Tax Map, Town of North Hempstead, Section 11, Block 76, Lot 13.

Environmental Conservation Law (ECL) Articles §§ 27 1309, (3) - (4) and § 1313 (8) authorize the Department or its authorized agents to enter upon any site, areas near such site, or area on which it has reason to believe that contaminants were disposed or discharged for purposes of inspection, sampling and testing, implementing a remedial program, long-term operation and maintenance, and temporary occupancy. This letter is to notify you of the Department's intent to exercise its right to access your property, above specified, pursuant to the cited statutory authority. This is not a notice that the Department intends to acquire the above specified property nor is it an offer to acquire it.

As an owner of the subject property the Department currently regards Sylvester Street Holdings LLC as potentially liable for a remedial program and/or for payment of costs incurred by the State in performing a remedial program at the site. Responsible parties under the ECL include current and past owners or operators, and persons who generated the hazardous wastes or were involved in transport, treatment, or disposal of such wastes and others who may be liable under applicable principles of law. Responsible parties are jointly and severally liable for money expended by the State for necessary corrective action at a site, including but not limited to investigation, planning, cleanup and enforcement. If you, or anyone representing you, delay the Department's officers, employees, agents and/or contractors from entering upon your real property, you may be assessed the costs incurred by the Department for the delay.

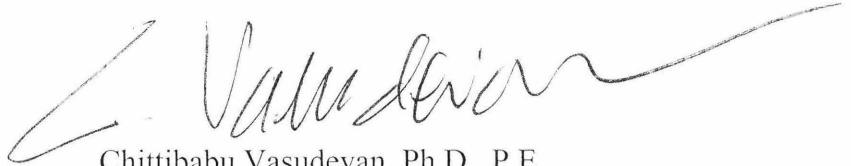
The Department requests your cooperation in entering upon your real property, above specified. The Department, acting through its officers, employees, agents and contractors, as authorized pursuant to the ECL Article § 27 1309, to implement the required investigation, will be entering your real property at any time on or after February 28, 2008 for the purpose of soil vapor intrusion investigation at the above referenced property.

This work requires the collection of samples of various environmental media. In order to take such samples, the Department may use or cause to be used such sampling methods as it determines to be necessary including, but not limited to, soil sampling, soil borings, test pits, monitoring wells and geophysical studies.

The Department will make every effort to cooperate with you so that any adverse impact of its entry on and occupancy of your property will be minimized.

Any questions or concerns about the Department's operations on your property should be directed to Mr. Joseph Jones, Project Manager, at (518) 402-9621 or at the above address. Any questions about the Department's legal authority should be directed to the assigned case attorney, Ms. Alali Tamuno at (914) 428-2505 ext. 320.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chittibabu Vasudevan', with a long, sweeping horizontal line extending to the right.

Chittibabu Vasudevan, Ph.D., P.E.
Director, Remedial Bureau A
Division of Environmental Remediation

cc: Joseph Jones
Alali Tamuno

New York State Department of Environmental Conservation

Division of Environmental Remediation

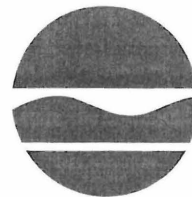
Remedial Bureau A

625 Broadway, 11th Floor

Albany, New York 12233-7015

Phone: (518) 402-9621 • Fax: (518) 402-9020 / (518) 402-9627

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

Certified Mail

Return Receipt Requested

DEC 28 2007

Sylvester Street Holdings LLC
792 Carmen Avenue
Westbury, NY 11590

Re: Former Laka Industries Property, Site No. 1-30-043K
North Hempstead, New York

Dear Sir or Madame:

The New York State Department of Environmental Conservation (the Department) is preparing to carry out Environmental Sampling at the Former Laka Industries site; Site No.1-30-043K located in the Village of North Hempstead. Our records indicate that you are the owner of this property located within the site area identified on the County of Nassau Tax Map, Town of North Hempstead, Section 11, Block 76, Lot 13.

Environmental Conservation Law (ECL) Articles §§ 27 1309, (3) - (4) and § 1313 (8) authorize the Department or its authorized agents to enter upon any site, areas near such site, or area on which it has reason to believe that contaminants were disposed or discharged for purposes of inspection, sampling and testing, implementing a remedial program, long-term operation and maintenance, and temporary occupancy. This letter is to notify you of the Department's intent to exercise its right to access your property, above specified, pursuant to the cited statutory authority. This is not a notice that the Department intends to acquire the above specified property nor is it an offer to acquire it.

As an owner of the subject property the Department currently regards Sylvester Street Holdings LLC as potentially liable for a remedial program and/or for payment of costs incurred by the State in performing a remedial program at the site. Responsible parties under the ECL include current and past owners or operators, and persons who generated the hazardous wastes or were involved in transport, treatment, or disposal of such wastes and others who may be liable under applicable principles of law. Responsible parties are jointly and severally liable for money expended by the State for necessary corrective action at a site, including but not limited to investigation, planning, cleanup and enforcement. If you, or anyone representing you, delay the Department's officers, employees, agents and/or contractors from entering upon your real property, you may be assessed the costs incurred by the Department for the delay.

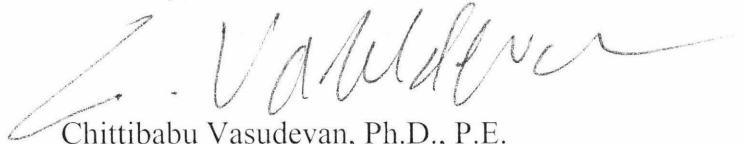
The Department requests your cooperation in entering upon your real property, above specified. The Department, acting through its officers, employees, agents and contractors, as authorized pursuant to the Environmental Conservation Law Article § 27 1309, to implement the required investigation, will be entering your real property at any time on or after January 15, 2008 for the purpose of soil vapor intrusion investigation at the above referenced property.

This work requires the collection of samples of various environmental media. In order to take such samples, the Department may use or cause to be used such sampling methods as it determines to be necessary including, but not limited to, soil sampling, soil borings, test pits, monitoring wells and geophysical studies.

The Department will make every effort to cooperate with you so that any adverse impact of its entry on and occupancy of your property will be minimized.

Any questions or concerns about the Department's operations on your property should be directed to Mr. Joseph Jones, Project Manager, at (518) 402-9621 or at the above address. Any questions about the Department's legal authority should be directed to the assigned case attorney, Ms. Alali Tamuno at (914) 428-2505 ext. 320.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chittibabu Vasudevan".

Chittibabu Vasudevan, Ph.D., P.E.
Director, Remedial Bureau A
Division of Environmental Remediation

cc: Joseph Jones
Alali Tamuno

T. Marasco General Contracting, Inc.
67 Sylvester Street
Westbury, NY 11590
Phone: 516-333-1086 Fax: (516) 876-6848

TRANSMITTAL

Date: 1-10-08

To: Joe

From: Tom Marasco
Reference:
Copies to: ☐ file
☐
☐

Telephone:

Via: ☐ Hand Delivery
☐ Messenger
☐ First Class Mail
☐ Federal Express
☒ Facsimile

With 2 page(s) to follow

Remarks:

Dear Joe:

Please review the following
letter from DEC
and call me back at
516 924 4456.

Thank you.

Tom

Exhibit J



STATE OF NEW YORK DEPARTMENT OF HEALTH

Flanigan Square 547 River Street Troy, New York 12180-2216

Richard F. Daines, M.D.
Commissioner

James W. Clyne, Jr.
Executive Deputy Commissioner

July 19, 2010

Mr. Thomas Marasco
67 Sylvester Street
Westbury, New York 11590

Re: Soil Vapor Intrusion Investigation Results
New Cassel Industrial Area
Former LAKA Industries, Inc.
62 Kinkel Street
Site #130043K
Westbury (T), Nassau County

Dear Mr. Marasco:

On February 16, 2010, the environmental consultant representing the New York State Department of Environmental Conservation (NYSDEC) collected three (3) air samples from beneath, two (2) within and one (1) outside your property to assess the potential for site-related vapor contamination to enter your building and affect the indoor air quality through a process called soil vapor intrusion (see enclosed fact sheet). The samples were collected as part of an on-going environmental investigation for the presence of chlorinated solvents, such as tetrachloroethene (PCE), trichloroethene (TCE) and 1,1,1-trichloroethane (1,1,1-TCA) which have been associated with the New Cassel Industrial Area (NCIA) site located in Westbury, Nassau County. According to information collected during the February 2010 sampling event, tenants using the building include a granite showroom, offices, and a granite workshop. I have summarized your results in Figure 1 and have also enclosed the complete laboratory results for the samples collected at your building.

Based on my review of the data, no immediate actions are recommended to address the indoor air of your building. PCE was detected in the indoor air at levels of 1.7 and 5.4 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). These detections are below the New York State Department of Health's air guideline of 100 $\mu\text{g}/\text{m}^3$ for PCE. TCE was detected in the indoor air at levels of 0.87 and 0.6 $\mu\text{g}/\text{m}^3$. These detections are below the air guideline of 5 $\mu\text{g}/\text{m}^3$ for TCE.

As expected, other volatile organic compounds were detected in the indoor air because they are part of our everyday lives. They are present in the products we store and use in our homes and businesses and in the outdoor air that enters our buildings (see enclosed fact sheet; Volatile Organic Compounds (VOCs) in Commonly Used Products). The concentrations of the VOCs detected in the indoor air of your building are generally consistent with those typically found in homes and are consistent with the results of the outdoor air sample collected on the same day.

Figure 1

Site-Related Volatile Organic Compound (VOC) Data
February 2010

Structure K

Indoor Air Sample-(SS-01)

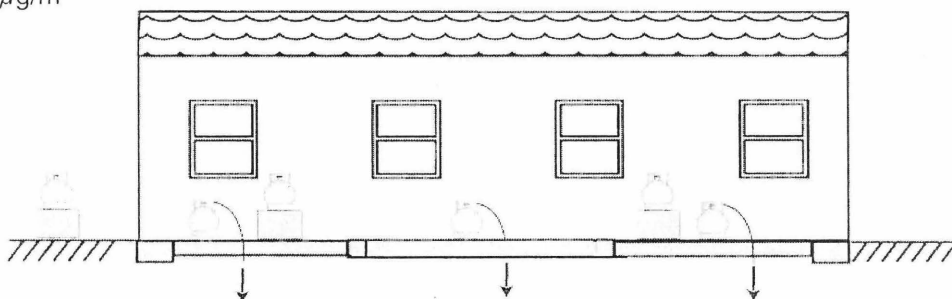
PCE - $1.7 \mu\text{g}/\text{m}^3$
TCE - $0.87 \mu\text{g}/\text{m}^3$
111-TCA - $0.83 \mu\text{g}/\text{m}^3$

Indoor Air Sample-(SS-02)

PCE - $5.4 \mu\text{g}/\text{m}^3$
TCE - $0.6 \mu\text{g}/\text{m}^3$
111-TCA - $0.83 \mu\text{g}/\text{m}^3$

Outside Sample(AA-1)

PCE - $0.93 \mu\text{g}/\text{m}^3$
TCE - $0.15 \mu\text{g}/\text{m}^3$
111-TCA - $0.75 \mu\text{g}/\text{m}^3$



Subslab Sample-(SS-01)

PCE - $280 \mu\text{g}/\text{m}^3$
TCE - $930 \mu\text{g}/\text{m}^3$
111-TCA - $77 \mu\text{g}/\text{m}^3$

Subslab Sample-(SS-03)

PCE - $1,500 \mu\text{g}/\text{m}^3$
TCE - $10,000 \mu\text{g}/\text{m}^3$
111-TCA - $2,100 \mu\text{g}/\text{m}^3$

Subslab Sample-(SS-02)

PCE - $650 \mu\text{g}/\text{m}^3$
TCE - $490 \mu\text{g}/\text{m}^3$
111-TCA - $36 \mu\text{g}/\text{m}^3$

NOTES:

This diagram is intended to provide a quick reference to illustrate the testing results for site-related VOCs in air samples collected from the 1st floor and beneath the slab of your business.

$\mu\text{g}/\text{m}^3$ = micrograms per cubic meter

(Structure K)

Table 3.4 - Site 130043K 2009 Vapor Intrusion Results

Site Name and NYSDEC Site Number	Former LAKA Industries, Inc. (130043K)									
	Structure K									
	SS-01		SS-02		SS-03		IA-01		IA-02	
	2/16/2010		2/16/2010		2/16/2010		2/16/2010		2/16/2010	
	130043K-SS-01		130043K-SS-02		130043K-SS-03		130043K-IA-01		130043K-IA-02	
Parameter Name	FS		FS		FS		FS		FS	
QC Code	Result	Qualifier	Result	Qualifier	Result	Qualifier	Result	Qualifier	Result	Qualifier
1,1,1-Trichloroethane	77		36		2100		0.83	U	0.83	U
1,1,2-Trichloro-1,2,2-Trifluoroethane	1.2	U	1.2	U	5		1.2	U	1.2	U
1,1-Dichloroethane	1.9		1.2		35		0.62	U	0.62	U
1,2,4-Trimethylbenzene	2.7	J	0.75	UJ	54	J	1.3		1.8	
1,3,5-Trimethylbenzene	0.8	J	0.75	UJ	21	J	0.75	U	0.55	J
1,4-Dioxane	1.1	U	1.1	U	6	J	1.1	U	1.1	U
2-Butanone	6.6	J	2		57		4.1		2.3	
2-Hexanone	1.2	UJ	1.2	U	26	J	1.2	U	1.2	U
2-Propanol	32		39		0.37	UJ	58	EJ	51	EJ
4-Ethyltoluene	0.95	J	0.75	U	15	J	0.75	U	0.8	
4-Methyl-2-pentanone	1.2	J	1.2	U	12	J	1.2	U	1.2	U
Acetone	96		32		200	EJ	29	EJ	74	EJ
Benzene	4.3		0.58		67		1.2		1.8	
Carbon disulfide	14		1.5		11		0.47	U	0.47	U
Carbon tetrachloride	0.7	J	0.96	U	0.96	UJ	0.51	J	0.51	J
Chloroform	20		8.9		23		0.74	U	0.74	U
Chloromethane	0.31	U	0.31	U	0.31	U	0.86		0.8	
Cis-1,2-Dichloroethene	1.3		2.8		120		0.6	U	0.6	U
Cyclohexane	0.52	U	0.52	U	16		0.52	U	0.52	U
Dichlorodifluoromethane	0.75	U	9.4		0.75	U	2.4		2.3	
Ethyl benzene	58		4.3		19	J	1.1		2.1	
Heptane	4		0.62	U	66		1.9		1.2	
Hexane	4.1		0.54	U	56		0.54	U	0.54	U
Isooctane	0.71	U	0.71	U	0.71	UJ	0.71	U	1.1	
Methylene chloride	0.53	U	0.53	U	0.53	U	0.46	J	0.39	J
Styrene	3.6	J	0.65	U	0.65	UJ	0.48	J	1.4	
Tetrachloroethene	280		650		1500		1.7		5.4	
Toluene	46		5.1		36	J	12	EJ	18	EJ
Trichloroethene	930		490		10000		0.87		0.6	
Trichlorofluoromethane	4.4		37		10		1.1		1.7	
Xylene, m/p	220		15		50	J	3.3		7.1	
Xylene, o	17		1.6		17	J	1.1		2.2	

Notes:

NYSDEC - New York State Department of Environmental Conservation

Results in microgram per cubic meter ($\mu\text{g}/\text{m}^3$)

Samples analyzed for VOCs by USEPA Method TO-15.

Location Name: AA - Ambient Air; SV - Soil Vapor; IA - Indoor Air

QC Code:

FS - Field Sample

Qualifiers:

U - Not detected at a concentration greater than the reporting limit

E - Detected at a concentration greater than the calibration range

J - Estimated value

Bold - analyte detection

Reference:

New York State Department of Health, Center for Environmental Health, Bureau of Environmental Exposure Investigation, "FINAL Guidance for Evaluating Soil Vapor Intrusion in the State of New York", October 2006.

Criteria:

Highlighted results within the guidance criteria for **Mitigate**, as established in "Guidance for Evaluating Soil Vapor Intrusion in the State of New York (New York State Department of Health, 2005).

Highlighted results within the criteria for **Monitor**, as established in "Guidance for Evaluating Soil Vapor Intrusion in the State of New York (New York State Department of Health, 2005).

Highlighted results recommend that reasonable and practical actions are taken to identify the source(s) and reduce exposure, as established in "Guidance for Evaluating Soil Vapor Intrusion in the State of New York"; or no further action to be taken (New York State Department of Health, 2005).

What is Exposure?

Exposure is contact. No matter how dangerous a substance or activity, without exposure, it cannot harm you.

Amount of exposure:



Over 400 years ago, a scientist said "...nothing [is] without poisonous qualities. It is only the dose that makes a thing poison." The **dose** is the amount of a substance that enters or contacts a person. An important factor to consider in evaluating a dose is body weight. If a child is exposed to the same amount of chemical as an adult, the child (who weighs less) can be affected more than the adult. For example, children are given smaller amounts of aspirin than adults because an adult dose is too large for a child's body weight.

The greater the amount of a substance a person is exposed to, the more likely that health effects will occur. Large amounts of a relatively harmless substance can be toxic. For example, two aspirin tablets can help to relieve a headache, but taking an entire bottle of aspirin can cause stomach pain, nausea, vomiting, headache, convulsions or death.



Routes of exposure:

There are three major means by which a toxic substance can come into contact with or enter the body. These are called routes of exposure.

Inhalation (breathing) of gases, vapors, dusts or mists is a common route of exposure. Chemicals can enter and irritate the nose, air passages and lungs. They can become deposited in the airways or be absorbed through the lungs into the bloodstream. The blood can then carry these substances to the rest of the body.

Direct contact (touching) with the skin or eyes is also a route of exposure. Some substances are absorbed through the skin and enter the bloodstream. Broken, cut or cracked skin will allow substances to enter the body more easily.

Ingestion (swallowing) of food, drink, or other substances is another route of exposure. Chemicals that get in or on food, cigarettes, utensils or hands can be swallowed. Children are at greater risk of ingesting substances found in dust or soil because they often put their fingers or other objects in their mouths. Lead in paint chips is a good example. Substances can be absorbed into the blood and then transported to the rest of the body.

The route of exposure can determine whether or not the toxic substance has an effect. For example, breathing or swallowing lead can result in health effects, but touching lead is not usually harmful because lead is not absorbed particularly well through the skin.

How am I exposed to chemicals through soil vapor intrusion?

Humans can be exposed to soil vapor contaminated with volatile chemicals when vapors from beneath a building are drawn through cracks and openings in the foundation and mix with the indoor air. Inhalation is the route of exposure, or the manner in which the volatile chemicals actually enter the body, once in the indoor air.

Current exposures are when vapor intrusion is documented in an occupied building. *Potential* exposures are when volatile chemicals are present, or are accumulating, in the vapor phase beneath a building, but have not affected indoor air quality. Potential exposures also exist when there is a chance that contaminated soil vapors may move to existing buildings not currently affected or when there is a chance that new buildings can be built over existing subsurface vapor contamination. Both current and potential exposures are considered when evaluating soil vapor intrusion at a site that has documented subsurface sources of volatile chemicals.

In general, exposure to a volatile chemical does not necessarily mean that health effects will occur. Whether or not a person experiences health effects depends on several factors, including inhalation exposure, the length of exposure (short-term or acute versus long-term or chronic), the frequency of exposure, the toxicity of the volatile chemical, and the individual's sensitivity to the chemical.

What types of chemicals associated with environmental contamination may be entering my home via soil vapor intrusion?

Volatile organic compounds, or VOCs, are the most likely group of chemicals found in soil vapor, and which can move through the soil and enter buildings. Solvents used for dry cleaning, degreasing and other industrial purposes (e.g., tetrachloroethene, trichloroethene, 1,1,1-trichloroethane and Freon 113) are examples of VOCs. Examples of petroleum-related VOCs from petroleum spills are benzene, toluene, ethyl benzene, xylenes, styrene, hexane and trimethylbenzenes.

Is contaminated soil vapor the only source of volatile chemicals in my indoor air?

No. Volatile chemicals are also found in many household products. Paints, paint strippers and thinners, mineral spirits, glues, solvents, cigarette smoke, aerosol sprays, mothballs, air fresheners, new carpeting or furniture, hobby supplies, lubricants, stored fuels, refrigerants and recently dry-cleaned clothing all contain VOCs. Household products are often more of a source of VOCs in indoor air in homes than contaminated soil vapor.

Indoor air may also become affected when outdoor air containing volatile chemicals enters your home. Volatile chemicals are present in outdoor air due to their widespread use. Gasoline stations, dry cleaners, and other commercial/industrial facilities are important sources of VOCs to outdoor air.

What should I expect if soil vapor intrusion is a concern near my home?

If you live near a site that has documented soil, groundwater and/or soil vapor contaminated with volatile chemicals, you should expect that the potential for vapor intrusion is being, or has been, investigated. You may be contacted by the site owner or others working on the cleanup with information about the project. Your cooperation and consent would be requested before any testing/sampling would be done on your property. You may ask the person contacting you any questions about the work being done. You can also contact the NYSDOH's project manager for the site at 1-800-458-1158 (extension 2-7850) for additional information.

products containing VOCs might be contributing to levels that are detected in the indoor air.

What happens if soil vapor contamination or soil vapor intrusion is identified during investigation of a site?

Depending on the investigation results, additional sampling, monitoring or mitigation actions may be recommended. Additional sampling may be performed to determine the extent of soil vapor contamination and to verify questionable results. Monitoring (sampling on a recurring basis) is typically conducted if there is a significant potential for vapor intrusion to occur should building conditions change. Mitigation steps are taken to minimize exposures associated with soil vapor intrusion. Mitigation may include sealing cracks in the building's foundation, adjusting the building's heating, ventilation and air-conditioning system to maintain a positive pressure to prevent infiltration of subsurface vapors, or installing a sub-slab depressurization system beneath the building.

What is a sub-slab depressurization system?

A sub-slab depressurization system, much like a radon mitigation system, essentially prevents vapors beneath a slab from entering a building. A low amount of suction is applied below the foundation of the building and the vapors are vented to the outside (see illustration). The system uses minimal electricity and should not noticeably affect heating and cooling efficiency. This mitigation system also essentially prevents radon from entering a building, an added health benefit. The party responsible for cleaning up the source of the soil vapor contamination is usually responsible for paying for the installation of this system. If no responsible party is available, New York State will install the system. Once the contamination is cleaned up, the system should no longer be needed. In areas where radon is a problem, the NYSDOH recommends that these systems remain in place permanently.

What else can I do to improve my indoor air quality?

Household products and other factors, such as mold growth, carbon monoxide, and radon, can degrade the quality of air in your home. Consider the following tips to improve indoor air quality:

- Be aware of household products that contain VOCs. Do not buy more chemicals than you need at a time.
- Store unused chemicals in tightly-sealed containers in a well-ventilated location, preferably away from the living space in your home.
- Keep your home properly ventilated. Keeping it too air-tight may promote build up of chemicals in the air, as well as mold growth due to the build up of moisture.
- Fix all leaks promptly, as well as other moisture problems that encourage mold growth.
- Make sure your heating system, hot water, dryer and fireplaces are properly vented and in good condition. Have your furnace or boiler checked annually by a professional.
- Test your home for radon; take actions to reduce radon levels if needed.
- Install carbon monoxide detectors in your home; take immediate actions to reduce carbon monoxide levels if needed.

Where can I get more information?

For additional information about soil vapor intrusion, contact the NYSDOH's Bureau of Environmental Exposure Investigation at 1-800-458-1158 (extension 2-7850).

are continuously exposed to Pere in air all day, every day for as long as a lifetime. This is rarely true for most people who, if exposed, are likely to be exposed for only part of the day and part of their lifetime. In setting this level, the NYS DOH also considered the possibility that certain members of the population (infants, children, the elderly, and those with pre-existing health conditions) may be especially sensitive to the effects of Pere.

The purpose of the guideline is to help guide decisions about the nature of the efforts to reduce Pere exposure. Reasonable and practical actions should be taken to reduce Pere exposure when indoor air levels are above those typically found in indoor air, even when they are below the guideline of 100 mcg/m³. The urgency to take actions increases as indoor air levels increase, especially when air levels are above the guideline. The NYS DOH recommends taking immediate action to reduce exposure when an air level is ten times or more higher than the guideline (that is, when the air level is 1,000 mcg/m³ or higher).

Ways to Limit Exposure to Pere in Indoor Air

In all cases, the specific actions to limit exposure to Pere in indoor air depend on a case-by-case evaluation of the situation. Removing household sources of Pere and maintaining adequate ventilation will usually help reduce indoor air levels of the chemical. A sub-slab depressurization system can reduce the amount of Pere entering indoor air by soil vapor intrusion. Use of an activated carbon filter on the water supply can reduce the amount of the chemical in contaminated well water that could evaporate into indoor air.

Reportable Detection Level

The reportable detection level for a chemical can vary depending on the analytical method used, the laboratory performing the analysis, and several other factors. Most laboratories that use the analytical methods recommended by the NYS DOH for measuring Pere in air (and approved by the National Environmental Laboratory Accreditation Conference or New York State's Environmental Laboratory Approval Program) can routinely detect the chemical at concentrations below 1 mcg/m³.

Additional Information

Additional information on Pere, ways to reduce exposure, indoor air contamination resulting from soil vapor intrusion, indoor and outdoor air levels and the Environmental Conservation Law can be found on the NYS DOH website at <http://nyhealth.gov/environmental/indoors/air/contaminants/>.

If you have further questions about Pere and the information in this fact sheet, please call the NYS DOH at 1-518-402-7800 or 1-800-458-1158 (extension 2-7800), e-mail to ask_nys_doh@doh.ny.gov, or write to the following address:

New York State Department of Health
Bureau of Toxic Substance Assessment
Flanigan Square
547 River Street
Troy, New York 12180-2216

New York State Department of Health
January, 2009

NYS DOH Air Guideline

The NYS DOH guideline for TCE in air is 5 mcg/m³. This level is many times lower than the levels that have caused health effects in animals and humans. The guideline is based on the assumption that people are continuously exposed to TCE in air all day, every day for as long as a lifetime. This is rarely true for most people who, if exposed, are likely to be exposed for only part of the day and part of their lifetime. In setting this level, the NYS DOH also considered the possibility that certain members of the population (infants, children, the elderly, and those with pre-existing health conditions) may be especially sensitive to the effects of TCE.

The purpose of the guideline is to help guide decisions about the nature of the efforts to reduce TCE exposure. Reasonable and practical actions should be taken to reduce TCE exposure when indoor air levels are above those typically found in indoor air, even when they are below the guideline of 5 mcg/m³. The urgency to take actions increases as indoor air levels increase, especially when air levels are above the guideline.

Ways to Limit Exposure to TCE in Indoor Air

In all cases, the specific actions to limit exposure to TCE in indoor air depend on a case-by-case evaluation of the situation. Removing household sources of TCE and maintaining adequate ventilation will usually help reduce indoor air levels of the chemical. A sub-slab depressurization system can reduce the amount of TCE entering indoor air by soil vapor intrusion. Use of an activated carbon filter on the water supply can reduce the amount of the chemical in contaminated well water that evaporates into indoor air.

Reportable Detection Level

The reportable detection level for a chemical can vary depending on the analytical method used, the laboratory performing the analysis, and several other factors. Most laboratories that use the analytical methods recommended by the NYS DOH for measuring TCE in air (and approved by the National Environmental Laboratory Accreditation Conference or New York State's Environmental Laboratory Approval Program) can routinely detect the chemical at concentrations below 1 mcg/m³.

Additional Information

Additional information on TCE, ways to reduce exposure, indoor air contamination resulting from soil vapor intrusion, indoor and outdoor air levels and the Environmental Conservation Law can be found on the NYS DOH website at <http://nyhealth.gov/environmental/indoors/air/contaminants/>.

If you have further questions about TCE and the information in this fact sheet, please call the NYS DOH at 1-518-402-7800 or 1-800-458-1158 (extension 2-7800), e-mail to info@nyhealth.state.ny.us, or write to the following address:

New York State Department of Health
Bureau of Toxic Substance Assessment
Flanigan Square
547 River Street
Troy, New York 12180-2216

New York State Department of Health
January, 2009

VOCs can also get into indoor air from contaminated soils and groundwater under buildings. The chemicals enter buildings through cracks and openings in basements or slabs. When nearby soil or groundwater is contaminated, you might be asked for permission to investigate indoor air at your property. More information can be found at www.nyhealth.gov/environmental/indoors/vapor_intrusion/.

Should I be surprised if VOCs are in the air I breathe?

No. Because they are commonly used, some VOCs are almost always found in indoor air. The New York State Department of Health (DOH) and other agencies have studied typical levels of VOCs that may be present in indoor and outdoor air. Sometimes these levels are called “background levels”.

The term “background levels” can be confusing because they can vary depending on where an air sample was collected and whether VOCs were used or stored. For example, a study of VOCs in urban areas might find higher levels than another study in rural areas. Some studies look at office environments, others examine residences. Please keep in mind study findings may or may not make sense for your setting.

More information about levels of VOCs collected by DOH is available in Appendix C of the guidance for evaluating vapor intrusion at www.nyhealth.gov/environmental/investigations/soil_gas/svi_guidance.

How can VOCs affect human health?

Chemicals can enter the body through three major pathways (breathing, touching or swallowing). This is referred to as *exposure*. No matter how dangerous a substance or activity is, it cannot harm you without exposure.

Whether or not a person will have health effects after breathing in VOCs depends on:

- The *toxicity* of the chemical (the amount of harm that can be caused by contact with the chemical).
- How much of the chemical is in the air.
- How long and how often the air is breathed.

Differences in age, health condition, gender and exposure to other chemicals also can affect whether or not a person will have health effects.

Short-term exposure to high levels of some VOCs can cause headaches, dizziness, light-headedness, drowsiness, nausea, and eye and respiratory irritation. These effects usually go away after the exposure stops. In laboratory animals, long-

term exposure to high levels of some VOCs has caused cancer and affected the liver, kidney and nervous system. In general, we recommend minimizing exposure to chemicals, if possible.

How can I reduce the levels of VOCs indoors?

Find out if products used or stored in your home contain VOCs. Information about the chemicals in many household products are listed on the front of this fact sheet and a larger list is on the National Institute of Health's website at hpd.nlm.nih.gov/products.htm.

If you must store products containing VOCs, do so in tightly sealed, original containers in a secure and well-ventilated area. If possible store products in places where people do not spend much time, such as a garage or outdoor shed. Better yet, buy these products in amounts that are used quickly.

Dispose of unneeded products containing VOCs. Many of these products are considered *household hazardous wastes* and should be disposed of at special facilities or during special household hazardous waste collection programs in your area. Contact your town or visit the New York State Department of Environmental Conservation's website at www.dec.ny.gov/chemical/8485.html for more information about disposing of these products.

Use products containing VOCs in well-ventilated areas or outdoors. Open windows and doors or use an exhaust fan to increase ventilation. Repeated or prolonged ventilation may be necessary for reducing levels from building materials (new carpeting or furniture) that release VOCs slowly over time.

Carefully read labels and follow directions for use.

Where can I find out more?

New York State Department of Health
(800) 458-1158
www.nyhealth.gov/environmental/

Indoor Air Quality and Your Home from the New York State Energy Research and Development Authority www.nyserda.org/publications/iaq.pdf

The Inside Story: A Guide to Indoor Air Quality
www.epa.gov/iaq/pubs/insidest.html

New York State Department of Environmental Conservation website for information about household hazardous waste disposal
www.dec.ny.gov/chemical/8485.html

National Institute of Health's website for information about chemicals found in many household products.
hpd.nlm.nih.gov/products.htm



December 2007

While no vapors were detected within the indoor air at levels where mitigation is recommended, the PCE and TCE detected (maximum of 1,500 $\mu\text{g}/\text{m}^3$ and 10,000 $\mu\text{g}/\text{m}^3$, respectively) in the vapor beneath your building can potentially affect indoor air quality by being drawn into the building. Actions by you are recommended to mitigate the potential for exposures related to soil vapor intrusion into your building. You also have an obligation to notify your tenants of these findings. The enclosed informational fact sheets may help to explain this information to your tenants. You will be receiving a telephone call from me to better explain this situation and the next steps you should take. It is important that we speak.

If you have questions about the interpretation above, please contact me toll-free at 1-800-458-1158 (extension 27880). Thank you for allowing the State access to your building to evaluate the potential for exposure. We appreciate your assistance in our investigation of the NCIA site.

Sincerely,



Jacquelyn Nealon
Public Health Specialist III
Bureau of Environmental Exposure Investigation

ENCLOSURES:

- A Data Summary table of the validated sample results for each sample collected at your business.
- What is Exposure? an information sheet describing how a person may come into contact with chemicals in the environment.
- Soil Vapor Intrusion Frequently asked Questions - an information sheet describing process referred to as "soil vapor intrusion".
- NYSDOH Tenant Notification Fact Sheet for PCE - providing information on PCE and the NYSDOH's guideline for PCE in air.
- NYSDOH Tenant Notification Fact Sheet for TCE - providing information on TCE and the NYSDOH's guideline for TCE in air.
- Volatile Organic Compounds (VOCs) in Commonly Used Products - an information sheet describing what VOCs may be present in your indoor air and steps you can take to reduce them.

ecc: G. Litwin/M. VanValkenburg/file
C. Vasudevan/G. Bobersky/J. Jones
A. Tamuno
J. DeFranco
W. Parish
B. Devine



Length of exposure:

Short-term exposure is called **acute exposure**. Long-term exposure is called **chronic exposure**. Either may cause health effects that are immediate or health effects that occur days or years later.

Acute exposure is a short contact with a chemical. It may last a few seconds or a few hours. For example, it might take a few minutes to clean windows with ammonia, use nail polish remover or spray a can of paint. The fumes someone might inhale during these activities are examples of acute exposures.

Chronic exposure is continuous or repeated contact with a toxic substance over a long period of time (months or years). If a chemical is used every day on the job, the exposure would be chronic. Over time, some chemicals, such as PCBs and lead, can build up in the body and cause long-term health effects.

Chronic exposures can also occur at home. Some chemicals in household furniture, carpeting or cleaners can be sources of chronic exposure.



Sensitivity:

All people are not equally **sensitive** to chemicals, and are not affected by them in the same way. There are many reasons for this.

- People's bodies vary in their ability to absorb and break down or eliminate certain chemicals due to **genetic differences**.
- People may become **allergic** to a chemical after being exposed. Then they may react to very low levels of the chemical and have different or more serious health effects than nonallergic people exposed to the same amount. People who are allergic to bee venom, for example, have a more serious reaction to a bee sting than people who are not.
- Factors such as **age, illness, diet, alcohol use, pregnancy and medical or nonmedical drug use** can also affect a person's sensitivity to a chemical. Young children are often more sensitive to chemicals for a number of reasons. Their bodies are still developing and they cannot get rid of some chemicals as well as adults. Also, children absorb greater amounts of some chemicals (such as lead) into their blood than adults.

For more information:

New York State Department of Health
Center for Environmental Health
Flanigan Square
547 River Street, Room 316
Troy, NY 12180-2218
1-800-458-1158 (ext. 2-7530)

March 2001

Volatile Organic Compounds (VOCs) in Commonly Used Products

People spend most of their time indoors – at home, school and work. This makes the quality of the indoor air you breathe important. This fact sheet focuses on certain kinds of chemicals called *volatile organic compounds* or VOCs that are found in many products that we commonly use. It is designed to help you think about what VOCs may be present in your indoor air and steps you can take to reduce them.

What are VOCs?

VOCs are chemicals that easily enter the air as gases from some solids or liquids. They are ingredients in many commonly used products and are in the air of just about every indoor setting. The table to the right shows some examples of products that contain VOCs.

How do VOCs get into indoor air?

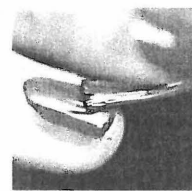
Products containing VOCs can release these chemicals when they are used and when they are stored. Many times you'll notice an odor when using these products. Product labels often list VOC ingredients and recommend that they should be used in well ventilated areas. *Ventilation* means bringing in fresh, outdoor air to mix with indoor air.

When you use a product containing VOCs indoors, the levels of these chemicals in the air increase, then decrease over time after you stop using them. The amount of time the chemical stays in the air depends on how quickly fresh air enters the room and the amount of the chemical used. Levels of VOCs will decrease faster if you open windows or doors, or use exhaust fans.

Building materials and furnishings, such as new carpets or furniture, slowly release VOCs over time. It may be necessary to ventilate areas with new carpeting or furniture for longer time periods because VOC levels can build up again after the windows are closed. If possible, unroll new carpets or store furniture outside your home (in a shed or detached garage) to minimize odors before bringing them in the home. If that's not possible, open windows, close doors and try to stay out of rooms until odors are reduced.

If VOC containing products are used outdoors near your home, you may want to close windows and nearby vents to prevent chemicals from coming inside.

Products used at home or work can release VOCs into the air when used and stored.



Examples of Household Products

Fuel containers or devices using gasoline, kerosene, fuel oil and products with petroleum distillates: paint thinner, oil-based stains and paint, aerosol or liquid insect pest products, mineral spirits, furniture polishes

Personal care products: nail polish, nail polish remover, colognes, perfumes, rubbing alcohol, hair spray

Dry cleaned clothes, spot removers, fabric/leather cleaners

Citrus (orange) oil or pine oil cleaners, solvents and some odor masking products

PVC cement and primer, various adhesives, contact cement, model cement

Paint stripper, adhesive (glue) removers

Degreasers, aerosol penetrating oils, brake cleaner, carburetor cleaner, commercial solvents, electronics cleaners, spray lubricants

Moth balls, moth flakes, deodorizers, air fresheners

Refrigerant from air conditioners, freezers, refrigerators, dehumidifiers

Aerosol spray products for some paints, cosmetics, automotive products, leather treatments, pesticides

Upholstered furniture, carpets, plywood, pressed wood products

Possible VOC Ingredients

BTEX (benzene, toluene, ethylbenzene, xylene), hexane, cyclohexane, 1,2,4-trimethylbenzene

Acetone, ethyl alcohol, isopropyl alcohol, methacrylates (methyl or ethyl), ethyl acetate

Tetrachloroethene (perchloroethene (PERC), trichloroethene (TCE))

d-limonene (citrus odor), α -pinene (pine odor), isoprene

Tetrahydrofuran, cyclohexane, methyl ethyl ketone (MEK), toluene, acetone, hexane, 1,1,1-trichloroethane, methyl-iso-butyl ketone (MIBK)

Methylene chloride, toluene, older products may contain carbon tetrachloride

Methylene chloride, PERC, TCE, toluene, xylenes, methyl ethyl ketone, 1,1,1-trichloroethane

1,4-dichlorobenzene, naphthalene

Freons (trichlorofluoromethane, dichlorodifluoromethane)

Heptane, butane, pentane

Formaldehyde

New York State Department of Health Tenant Notification Fact Sheet for Trichloroethene (TCE)

This fact sheet is provided to fulfill New York State Department of Health (NYS DOH) requirements for preparation of generic fact sheets under Article 27 (Title 24, Section 27-2405) of the Environmental Conservation Law.

Trichloroethene (TCE)

Trichloroethene (also known as trichloroethylene or TCE) is a man-made, volatile organic chemical. It was used as a solvent to remove grease from metal. Trichloroethene was also used as a paint stripper, an adhesive solvent, an ingredient in paints and varnishes, and is used in the manufacture of other organic chemicals.

Sources of TCE in Indoor Air

Household products containing TCE could be a possible source for TCE in indoor air. Another source could be evaporation from contaminated well water that is used for household purposes. TCE may also enter homes through soil vapor intrusion, which occurs when the chemical evaporates from groundwater, enters soil vapor (air spaces between soil particles), and migrates through building foundations into the building's indoor air. TCE has also been found at low concentrations in outdoor air.

Levels Typically Found in Air

The NYS DOH reviewed and compiled information from studies in New York State as well as from homes and office buildings across the United States on typical levels of TCE in indoor and outdoor air. Levels of TCE in the indoor air of homes and office settings and in outdoor air are expected to be less than 1 microgram per cubic meter (mcg/m³).

Health Risks Associated with Exposure

Some studies of people exposed for long periods of time to high levels of TCE in workplace air or in drinking water show an association between TCE exposure and increased risks for certain types of cancer. These studies have limitations, and therefore we do not know with certainty if the increased risks are due to TCE or some other factor. Lifetime exposure to high levels of TCE has caused cancer in laboratory animals. Overall, the studies of humans and in animals do not prove that TCE causes cancer in people, but are highly suggestive that there may be an increased risk for cancer in people who are exposed (particularly at high concentrations) to TCE over long periods of time.

Long term exposure to high levels of TCE in workplace air is linked to effects on the central nervous system and irritation of the mucous membranes. One study showed an association between elevated levels of TCE in drinking water and effects on human fetal development. Other studies suggest an association between workplace TCE exposure and reproductive effects in men. Due to limitations in the studies, we do not know if the observed effects on fetal development and reproduction are due to TCE or some other factor is not known. In laboratory animals, exposure to high levels of TCE has damaged the central nervous system, liver and kidneys, and adversely affected reproduction and development of offspring. Taken together, the human and animal studies indicate that human exposure to high levels of TCE causes effects on the nervous system, and suggest that human exposure to high levels of TCE may increase the risk for reproductive and developmental health effects.

New York State Department of Health

Tenant Notification Fact Sheet for Tetrachloroethene (Perc)

This fact sheet is provided to fulfill New York State Department of Health (NYS DOH) requirements for preparation of generic fact sheets under Article 27 (Title 24, Section 27-2405) of the Environmental Conservation Law.

Tetrachloroethene (Perc)

Tetrachloroethene (also known as perchloroethylene or Perc) is a man-made volatile organic chemical that is widely used in the dry-cleaning of fabrics, including clothes, and in manufacturing other chemicals. It was also used for degreasing metal parts and in consumer products, including some paint and spot removers, water repellents, brake and wood cleaners, glues, and suede protectors.

Sources of Perc in Indoor Air

Household products containing Perc could be a possible source for Perc in indoor air. Perc also may evaporate from dry-cleaned clothes or dry-cleaning operations into indoor air. Another source could be evaporation from contaminated well water that is used for household purposes. Perc may also enter homes through soil vapor intrusion, which occurs when the chemical evaporates from groundwater, enters soil vapor (air spaces between soil particles), and migrates through building foundations into the building's indoor air. Perc has also been found at low concentrations in outdoor air.

Levels Typically Found in Air

The NYS DOH reviewed and compiled information from studies in New York State as well as from homes and office buildings across the United States on typical levels of Perc in indoor and outdoor air. Levels of Perc in the indoor air of homes and office settings and in outdoor air are expected to be below 10 micrograms per cubic meter (mcg/m³).

Health Risks Associated with Exposure

An association exists between exposure of people in the workplace to high levels of Perc in air and certain forms of cancer. Perc causes cancer in laboratory animals exposed to high levels over their lifetimes. Overall, the studies of humans and in animals do not prove that Perc causes cancer in people, but are highly suggestive that there may be an increased risk for cancer in people who are exposed to Perc (particularly at high concentrations) over long periods of time.

People exposed to high levels of Perc in air had nervous system effects and slight changes to their liver and kidneys. Some studies show a slightly increased risk for some types of reproductive effects among workers (including dry-cleaning workers) exposed to Perc and other chemicals. The reproductive effects associated with exposure included increased risks for spontaneous abortion, menstrual and sperm disorders, and reduced fertility. The data suggest, but do not prove, that the effects were caused by Perc and not by some other factor or factors. Exposure to high levels of Perc has caused liver and kidney damage in laboratory animals and effects on the nervous system. Taken together, the human and animal studies indicate that human exposure to high levels of Perc causes effects on the nervous system, and suggest that human exposure to high levels of Perc may increase the risk for liver and kidney toxicity.

NYS DOH Air Guideline

The NYS DOH guideline for Perc in air is 100 mcg/m³. This level is lower than the levels that have caused health effects in animals and humans. The guideline is based on the assumption that people

How is soil vapor intrusion investigated at sites contaminated with volatile chemicals?

The process of investigating soil vapor intrusion typically requires more than one set of samples to determine the extent of vapor contamination. Furthermore, four types of environmental samples are collected: soil vapor samples, sub-slab vapor samples, indoor air samples and outdoor air (sometimes referred to as "ambient air") samples.

Soil vapor samples are collected to characterize the nature and extent of vapor contamination in the soil in a given area. They are often collected before sub-slab vapor and/or indoor air samples to help identify buildings or groups of buildings that need to be sampled. Soil vapor samples are used to determine the *potential* for human exposures. *Soil vapor* samples are not the same as *soil* samples.

Sub-slab vapor samples are collected to characterize the nature and extent of vapor contamination in the soil immediately beneath a building with basement foundations or a slab. Sub-slab vapor results are used to determine the potential for *current* and *future* human exposures. For example, an exposure could occur in the future if cracks develop in the building's foundation or changes in the operation of the building's heating, ventilation or air-conditioning system are made that make the movement of contaminated soil vapor into the building possible.

Indoor air samples are collected to characterize the nature and extent of air contamination within a building. Indoor air sample results help to evaluate whether there are *current* human exposures. They are also compared to sub-slab vapor and outdoor air results to help determine where volatile chemicals may be coming from (indoor sources, outdoor sources, and/or beneath the building).

Outdoor air samples are collected to characterize site-specific background air conditions. Outdoor air results are used to evaluate the extent to which outdoor sources, such as automobiles, lawn mowers, oil storage tanks, gasoline stations, commercial/industrial facilities, and so forth, may be affecting indoor air quality.

What should I expect if indoor air samples are collected in my home?

You should expect the following:

- Indoor air samples are generally collected from the lowest-level space in a building, typically a basement, during the heating season. Indoor air samples may also be collected from the first floor of living space. Indoor air is believed to represent the greatest exposure potential with respect to soil vapor intrusion.
- Sub-slab vapor and outdoor air samples are usually collected at the same time as indoor air samples to help determine where volatile chemicals may be coming from (indoor sources, outdoor sources, and/or beneath the building).
- More limited sampling may be performed outside of the heating season. For example, sub-slab vapor samples without indoor air or outdoor air samples may be collected to identify buildings and areas where comprehensive sampling is needed during the heating season.
- An indoor air quality questionnaire and building inventory will be completed. The questionnaire includes a summary of the building's construction characteristics; the building's heating, ventilation and air-conditioning system operations; and potential indoor and outdoor sources of volatile chemicals. The building inventory describes products present in the building that might contain volatile chemicals. In addition, we take monitoring readings from a real-time organic vapor meter (also known as a photoionization detector or PID). The PID is an instrument that detects many VOCs in the air. When indoor air samples are collected, the PID is used to help determine whether

SOIL VAPOR INTRUSION

Frequently Asked Questions

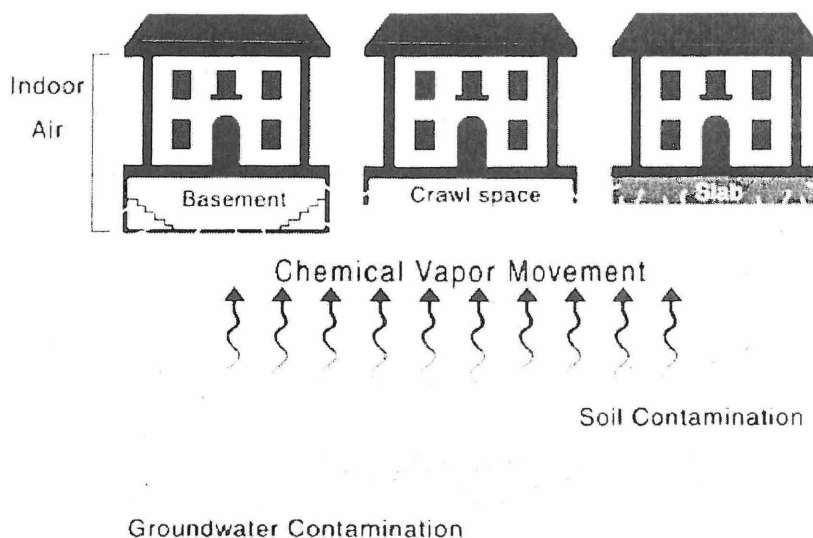
What is soil vapor intrusion?

The phrase "soil vapor intrusion" refers to the process by which volatile chemicals move from a subsurface source into the indoor air of overlying buildings.

Soil vapor, or soil gas, is the air found in the pore spaces between soil particles. Because of a difference in pressure, soil vapor enters buildings through cracks in slabs or basement floors and walls, and through openings around sump pumps or where pipes and electrical wires go through the foundation. Heating, ventilation or air-conditioning systems may create a negative pressure that can draw soil vapor into the building. This intrusion is similar to how radon gas seeps into buildings.

Soil vapor can become contaminated when chemicals evaporate from subsurface sources and enter the soil vapor. Chemicals that readily evaporate are called "volatile chemicals." Volatile chemicals include volatile organic compounds (VOCs). Subsurface sources of volatile chemicals may include contaminated soil and groundwater, or buried wastes. If soil vapor is contaminated, and enters a building as described above, indoor air quality may be affected.

When contaminated vapors are present in the zone directly next to or under the foundation of the building, vapor intrusion is possible. Soil vapor can enter a building whether it is old or new, or whether it has a basement, a crawl space, or is on a slab (as illustrated in the figure).



[Source: United States Environmental Protection Agency, Region 3]

Exhibit K



Environmental Site Remediation Database Search Details

Site Record

Administrative Information

Site Name: Former LAKA Industries, Inc.

Site Code: 130043K

Program: State Superfund Program

Classification: 02

EPA ID Number:

Location

DEC Region: 1

Address: 62 Kinkel Street

City: Westbury Zip: 11590

County: NASSAU

Latitude: 40.756598170

Longitude: -73.561475350

Site Type: STRUCTURE

Estimated Size: 0.170 Acres

Site Owner(s) and Operator(s)

Current Owner Name: DermKraft, Inc.

Current Owner(s) Address: 62 Kinkel Street
New Cassel, NY, 11590

Current Owner Name: UNKNOWN

Current Owner(s) Address: 62 KINKEL ST.
WESTBURY, NY, 11590

Current On-Site Operator: LAKA Industries, Inc.

Stated Operator(s) Address: 62 Kinkel Street
New Cassel, NY 11590

Current On-Site Operator: UNKNOWN

Stated Operator(s) Address: 62 KINKEL STREET
WESTBURY, NY 11590

Hazardous Waste Disposal Period

From: 1971 **To:** 1984

Site Description

This site is located on the east side of Kinkel Street, south of Main Street in the New Cassel Industrial Area. The former occupants LAKA Tools and Stamping and LAKA Industries used trichloroethylene (TCE) as a degreaser. Soil samples collected from an abandoned drywell or cesspool contained extremely high levels of TCE and cis-1,2-dichloroethylene (DCE) and groundwater samples collected at the same locations also contained high levels of both TCE and cis-1,2-DCE. Past site operations have contaminated groundwater beneath and downgradient of the site with high levels of TCE and cis-1,2-DCE. The contaminated groundwater is located within an EPA designated sole-source aquifer. The contaminated plume that is emanating from this site has migrated approximately 700 feet downgradient. Two public water supply wells are located 1,500 feet downgradient of this site. This site has received a State Superfund referral. A standby consultant was authorized to implement a Focused Remedial Investigation and Feasibility Study. The field work was completed in October 1998. The Focused Remedial Investigation dated November 1998 and the Focused Feasibility Study dated May 1999 were presented along with the Proposed Remedial Action Plan (PRAP) for Operable Unit 1 (OU-1) on-site soil and groundwater were presented at a public meeting September 30, 1999. The selected remedy was the excavation and off-site disposal of soil and includes monitoring of on-site groundwater for a period of at least two years. The ROD for OU-1 was issued on February 29, 2000 and a Superfund referral was issued on January 3, 2001. The Remedial Action for OU-1 began on February 18, 2002. The excavation and cleanout of the cesspool and catch basin began on February 19, 2002 and confirmatory samples were collected. The excavation was restored and the final inspection was completed on February 28, 2002. The waste material was removed from the site in March, 2002. Soil vapor sampling carried out in March 2008 shows elevated VOC levels in on-site soils. This result is confirmed by further sampling in 2010

Summary of Project Completion Dates

Projects associated with this site are listed in the [Project Completion Dates](#) table and are grouped by Operable Unit (OU). A site can be divided into a number of operable units depending on the complexity of the site and the number of issues associated with a site. Sites are often divided into operable units based on the media to be addressed (such as groundwater or contaminated soil), geographic area, or other factors.

Contaminants of Concern (Including Materials Disposed)

Type of Waste	Quantity of Waste
TRICHLOROETHYLENE (F001-F002)	UNKNOWN

Site Environmental Assessment

Past site operations have contaminated the groundwater within a sole-source aquifer at and downgradient of the site with high levels of Trichloroethylene. Soil vapor sampling carried out in March 2008 indicate elevated levels of VOCs in on-site soil vapors, this result confirmed by further sampling in 2010..

Site Health Assessment

The site may have contributed contamination to groundwater used for public water supplies. Water from these wells is treated to remove contamination and minimize exposures to contaminants in drinking water. Direct contact with contaminated soil is unlikely because the site is primarily covered with building and pavement. Soil vapor intrusion into on- and off-site buildings is possible.

For more Information: [E-mail Us](#)

[Refine Current Search](#)



Summary of Project Completion Dates

Site Name: Former LAKA Industries, Inc.

Site Code: 130043K

Program: State Superfund Program

Locality: Westbury

DEC Region: 1

Operable Unit: 01 - On-site Soils & Groundwater

Project Name	Completion Date
Site Characterization	03/01/1996
Remedial Investigation	02/29/2000

Citizen Participation is an important part of the Department's efforts to remediate abandoned and inactive hazardous waste disposal sites in New York. Fact sheets have been developed to provide the public with information about the [major elements](#) of the State's Superfund program (given in the completion dates above) and to help citizens understand how the program works.

Refine This Search

Exhibit L

Daniel Mach

From: Nancy Raspanti <nraspanti@libardi.com>
Sent: Friday, April 04, 2014 10:31 AM
To: Daniel Mach
Subject: RE: 67 Sylvester St. Holdings Documents
Attachments: 3.17.14E.pdf

Att: Daniel,

Please note that the insured has had this same carrier with coverage since March of 2005.

Nancy Raspanti (Claims Rep)

Libardi Service Agency

100 Stewart Avenue

Hicksville, NY 11801

(Phone) 516-333-3611 x111

(Fax) 516-997-0816

(Email) nraspanti@libardi.com

(Website) www.libardi.com



From: Daniel Mach [<mailto:dmach@sprlaw.com>]
Sent: Thursday, April 03, 2014 7:22 PM
To: William Libardi
Cc: Tom@elegantestone.com; Nancy Raspanti
Subject: Re: 67 Sylvester St. Holdings Documents

Great, thanks!

Sent from my iPhone.

On Apr 3, 2014, at 7:07 PM, "William Libardi" <WLibardi@libardi.com> wrote:

Dan ,

Nancy from my office will have the policy to you by tomorrow morning .Thanks

Bill

William Libardi,CIC

Libardi Service Agency,Inc

100 Stewart Ave

Hicksville NY 11801

wlibardi@libardi.com

www.libardi.com

Direct Line 516-419-3720

(P)516-333-3611 ext 119

<image001.jpg><image002.jpg>

From: Daniel Mach [<mailto:dmach@sprlaw.com>]

Sent: Thursday, April 03, 2014 7:06 PM

To: Tom@elegantestone.com; William Libardi

Subject: 67 Sylvester St. Holdings Documents

Hi Bill and Tom,

Just wanted to check in on the status of the documents you're both planning to send me related to 62 Kinkel, 67 Sylvester, and 792 Carman.

Thanks,
Dan

Daniel Mach
SIVE PAGET & RIESEL, P.C.
460 Park Avenue, 10th Floor
New York, NY 10022
Phone: 212 421-2150
Direct: 646 378-7291
Cell: 650 274-1433
Fax: 212 421-1891
www.sprlaw.com
dmach@sprlaw.com

Follow Our Blog: blog.sprlaw.com

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 Please consider the environment before printing this email.



Commercial Insurance Policy



IF RENEWAL CERTIFICATE APPLIES

In consideration of the payment of the premium shown on the declarations page, the numbered policy is renewed for the policy term shown, subject to all the terms and conditions of the policy including forms and endorsements unless otherwise specified. Current editions of the forms are attached only if earlier editions were revised during the previous term.

MUTUAL POLICY CONDITIONS

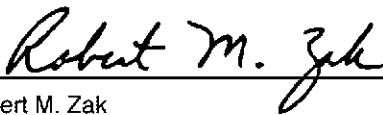
Applying Only If This Policy Is Issued By
Merchants Mutual Insurance Company, Buffalo, NY
As Shown On The Declarations Page

Because this policy was issued by a "mutual" insurance company, you are a member of Merchants Mutual Insurance Company. This entitles you to vote, either in person, or by proxy, at the meetings of the members of the Company. You are also entitled to any dividends which are declared by the Board of Directors and which apply to the coverages of your policy.

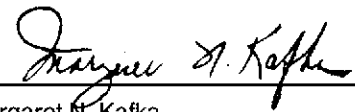
The annual meeting of members is held at the home office on the third Wednesday in May of each year at 11:00 am.

This policy is non-assessable. This means that you, as a member, have no responsibility for our debts or obligations. Your responsibility is limited to the premiums charged to you for your insurance.

This policy shall not be valid unless countersigned by our authorized agent.



Robert M. Zak
President & CEO



Margaret N. Kafka
Vice President

Please Direct All Correspondence To:
Merchants Insurance Group • 250 Main Street • Buffalo, New York 14202



Date Prepared: 02/26/14

**COMMERCIAL LINES POLICY
COMMON POLICY DECLARATIONS**

Merchants Mutual Insurance Company
Buffalo, New York

Policy Number: CMP9143810

Transaction Type: Renewal Certificate

Previous Policy Number: CMP9143810

DIRECT BILL

Named Insured and Mailing Address:

Your Agent: 03612/ESBC/008

ELEGANTE GRANITE & MARBLE INC
67 SYLVESTER ST
WESTBURY, NY 11590-4939

LIBARDI SERVICE AGCY INC.
100 STEWART AVENUE
HICKSVILLE, NY 11801
(516)333-3611

(If applicable, see last page of declarations for complete Named Insured)

Policy Period: From 03/17/14 to 03/17/15 at 12:01 a.m. Standard Time at your mailing address shown above.

Form of Business: CORPORATION

Business Description: TILE/GRANITE SHOWROOM

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED.
THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

COMMERCIAL PROPERTY COVERAGE PART	\$	4,181.15
COMMERCIAL GENERAL LIABILITY COVERAGE PART	\$	8,509.00
COMMERCIAL CRIME COVERAGE PART	\$	
COMMERCIAL INLAND MARINE COVERAGE PART	\$	
BUSINESS AUTO COVERAGE PART	\$	
TOTAL POLICY PREMIUM:	\$	12,690.15

FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION APPLYING TO THIS COVERAGE PART
AND MADE PART OF THIS POLICY AT TIME OF ISSUE

IL P0 01 (01/04) US TREAS DEPT OFFICE OF FOREIGN ASSETS CONTROL (OFAC) NOTICE
* MU 60 00 (04/07) COMMERCIAL LINES POLICY JACKET
* MU 76 53 (03/97) COMMON POLICY DECLARATIONS
* MU 86 59 (01/14) NOTICE-OFFER OF TERRORISM COVERAGE AND DISCLOSURE OF PREMIUM

Countersigned: _____ Authorized Representative: _____

MU 7653 (0397) THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART DECLARATIONS, COVERAGE PART FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

AGENT COPY



COMMERCIAL LINES POLICY
COMMON POLICY DECLARATIONS

Policy Number: CMP9143810

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Period: 03/17/14 to 03/17/15

SCHEDULE OF DESCRIBED PREMISES

Loc No	Bldg No	Address
001	001	67 SYLVESTER STREET WESTBURY NY 11590-4939 Business Occupancy: WAREHOUSE/FABRICATING
002	001	58 SYLVESTER ST WESTBURY, NY 11590-4911 Business Occupancy: OFFICE/SHOWROOM



COMMERCIAL LINES POLICY
COMMON POLICY DECLARATIONS

Policy Number: CMP9143810

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Period: 03/17/14 to 03/17/15

Complete Named Insured

ELEGANTE GRANITE & MARBLE INC
67 SYLVESTER ST
WESTBURY, NY 11590-4939

67 SYLVESTER ST HOLDINGS LLC
67 SYLVESTER ST
WESTBURY, NY 115904939

ZICANA LLC
67 SYLVESTER ST
WESTBURY, NY 115904939

MERCHANTS MUTUAL INSURANCE COMPANY

NOTICE - OFFER OF TERRORISM COVERAGE
NOTICE - DISCLOSURE OF PREMIUM

A. Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown below and in the policy Declarations.

States of Michigan, New Hampshire, Pennsylvania, Ohio, and Vermont:

If you accept this offer, the premium for terrorism coverage is \$ 0.00.

All other states:

In these states, a terrorism exclusion makes an exception for (and thereby provides coverage for) fire losses resulting from an act of terrorism. Therefore, if you reject the offer of terrorism coverage, that rejection does not apply to fire losses resulting from an act of terrorism coverage for such fire losses will be provided in your policy (if this is a renewal policy: will continue to be provided in your policy). The additional premium just for such fire coverage is stated below. If you reject this offer, this premium is due:

If you accept this offer, the premium for terrorism coverage is \$ 0.00.

If you reject this offer, the premium for terrorism (fire only) coverage is \$ 0.00.

To reject this offer, please complete the REJECTION STATEMENT below.

B. Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31), the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

C. Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

REJECTION STATEMENT

I hereby reject the offer of terrorism coverage. I understand that an exclusion of certain terrorism losses will be made part of this policy

Policyholder's Signature: _____

Date: _____

Print Name

**U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN
ASSETS CONTROL ("OFAC")
ADVISORY NOTICE TO POLICYHOLDERS**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site - <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.



**COMMERCIAL LINES POLICY
COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS**

Merchants Mutual Insurance Company
Buffalo, New York

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Number: CMP9143810

Policy Period: 03/17/14 to 03/17/15

TOTAL PREMIUM FOR THIS COVERAGE PART: \$4,181.15
INCLUDES NEW YORK FIRE FEE OF: \$31.15
INCLUDES TERRORISM RISK INSURANCE ACT PREMIUM OF: \$0.00

COVERAGES PROVIDED

Identity Recovery Coverage - refer to endorsement MU8448
Expense Recovery Limit: \$ 15,000 Annual Aggregate per "identity recovery insured"
Deductible: \$ 250

Insurance at the described premises applies only for coverages for which a limit of insurance is shown

Loc.No. Bldg.No. State
001 001 NY

COVERAGE	LIMIT OF INSURANCE	CAUSE OF LOSS	COINSURANCE	DEDUCTIBLE
Building	\$ 1,220,000	Special	80 %	\$ 1,000
Business Personal Property	\$ 105,000	Special	80 %	\$ 1,000

VALUATION (Actual Cash Value applies unless otherwise indicated)

Coverage	Valuation
Building	Replacement Cost
Personal Property	Replacement Cost

Loc.No. Bldg.No. State OPTIONAL COVERAGES
001 001 NY

BUSINESS INCOME WITH EXTRA EXPENSE

Limit of Insurance	Cause of Loss	Coinsurance	
\$ 42,000	Special	80 %	Coverage excludes Rental Value

Loc.No. Bldg.No. State MORTGAGEE(S)/LOSS PAYEE(S)
001 001 NY

001. Loss Payee
MAGELLAN CAPITAL GROUP INC AND/OR ITS ASSIGNS
26 DUDLEY STREET
ARLINGTON, MA 02476

Item Description: LEASED EQUIPMENT



COMMERCIAL LINES POLICY
COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

Merchants Mutual Insurance Company
Buffalo, New York

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Number: CMP9143810

Policy Period: 03/17/14 to 03/17/15

Loc.No.	Bldg.No.	State	MORTGAGEE(S)/LOSS PAYEE(S) CONT.
001	001	NY	

002.	Loss Payee WELLS FARGO EQUIPMENT FINANCE MANUFACTURER SERVICES GROUP C/O INSURANCE SERVICE CENTER PO BOX 979126 MIAMI, FL 33197
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Insurance at the described premises applies only for coverages for which a limit of insurance is shown

Loc.No.	Bldg.No.	State				
002	001	NY				
COVERAGE			LIMIT	CAUSE	COINSURANCE	DEDUCTIBLE
Business Personal Property			OF INSURANCE	OF LOSS		
			\$ 10,000	Special	80 %	\$ 1,000

VALUATION (Actual Cash Value applies unless otherwise indicated)

Coverage	Valuation
Personal Property	Replacement Cost

FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION APPLYING TO THIS COVERAGE PART AND MADE PART OF THIS POLICY AT TIME OF ISSUE

CF 01 75 (01/86)	QUICK REFERENCE - COMMERCIAL PROPERTY COVERAGE PART
CP P0 07 (08/08)	NY-EXCL OF LOSS DUE TO VIRUS OR BACTERIA - ADVISORY NOTICE
CP 00 10 (06/07)	BUILDING AND PERSONAL PROPERTY COVERAGE FORM
CP 00 30 (06/07)	BUSINESS INCOME AND EXTRA EXPENSE COVERAGE FORM
CP 00 90 (07/88)	COMMERCIAL PROPERTY CONDITIONS
CP 01 33 (01/11)	NEW YORK CHANGES
CP 01 64 (03/09)	NEW YORK CHANGES - FUNGUS, WET ROT & DRY ROT
CP 01 78 (08/08)	NEW YORK - EXCLUSION OF LOSS DUE TO VIRUS OR BACTERIA
CP 10 30 (06/07)	CAUSES OF LOSS - SPECIAL FORM
CP 10 32 (08/08)	WATER EXCLUSION ENDORSEMENT
CP 12 18 (06/07)	LOSS PAYABLE PROVISIONS
IL 00 17 (11/98)	COMMON POLICY CONDITIONS
IL 01 83 (08/08)	NEW YORK CHANGES - FRAUD
IL 01 85 (08/08)	NEW YORK CHANGES - CALCULATION OF PREMIUM
IL 02 68 (01/11)	NEW YORK CHANGES - CANCELLATION & NONRENEWAL
IL 09 35 (07/02)	EXCLUSION OF CERTAIN COMPUTER RELATED LOSSES
IL 09 52 (03/08)	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
* MS 1U 05 (11/99)	FRAUD TIP LINE
MU 74 15 (05/07)	VALUE PLUS SUPPLEMENTAL PROPERTY COVERAGE ENDORSEMENT
* MU 76 49 (03/97)	PROPERTY DECLARATIONS
MU 83 33 (01/07)	EQUIPMENT BREAKDOWN COVERGE
MU 84 48 (01/08)	IDENTITY RECOVERY COVERAGE

QUICK REFERENCE COMMERCIAL PROPERTY COVERAGE PART

READ YOUR POLICY CAREFULLY

The Commercial Property Coverage Part in your policy consists of Declarations, one or more Coverage Forms, Commercial Property Conditions, Common Policy Conditions and Endorsements, if applicable. Following is a Quick Reference indexing of the principal provisions contained in each of the components making up the Coverage Part, listed in sequential order, except for the provisions in the Declarations which may not be in the sequence shown.

DECLARATIONS

- Named Insured and Mailing Address
- Policy Period
- Description of Business
- Coverage Provided and Limits of Insurance
- Optional Coverages
- Forms and Endorsements applying to the Coverage Part at time of issue

COVERAGE FORM(S)

COVERAGE

- Covered Property (If Applicable)
- Property Not Covered (If Applicable)
- Covered Causes of Loss (If Applicable)
- Additional Coverage (If Applicable)
- Coverage Extensions (If Applicable)

EXCLUSIONS

LIMITS OF INSURANCE

DEDUCTIBLE (If Applicable)

LOSS CONDITIONS (If Applicable)

ADDITIONAL CONDITIONS (If Applicable)

OPTIONAL COVERAGES (If Applicable)

DEFINITIONS (If Applicable)

CAUSES OF LOSS FORM (If Applicable)

- Covered Causes of Loss
- Exclusions
- Limitations (If Applicable)
- Additional Coverage (If Applicable)

COMMERCIAL PROPERTY CONDITIONS (CP 00 90)

- Concealment, Misrepresentation and Fraud
- Control of Property
- Insurance Under Two or More Coverages
- Legal Action Against Us
- Liberalization
- No Benefit to Bailee
- Other Insurance
- Policy Period, Coverage Territory
- Transfer of Rights of Recovery Against Others to Us

COMMON POLICY CONDITIONS (IL 00 17)

- Cancellation
- Changes
- Examination of Your Books and Records
- Inspections and Surveys
- Premiums
- Transfer of Your Rights and Duties Under This Policy

ENDORSEMENTS (If Any)

**NEW YORK - EXCLUSION OF LOSS
DUE TO VIRUS OR BACTERIA
ADVISORY NOTICE TO POLICYHOLDERS**

This Notice does not form a part of your insurance contract. No coverage is provided by this Notice, nor can it be construed to replace any provisions of your policy (including its endorsements). If there is any conflict between this Notice and the policy (including its endorsements), the provisions of the policy (including its endorsements) shall prevail.

Carefully read your policy, including the endorsements attached to your policy.

This Notice provides information concerning the following new endorsement, which applies to your new or renewal policy being issued by us:

New York - Exclusion Of Loss Due To Virus Or Bacteria Endorsement CP 01 78 08 08

This endorsement makes an explicit statement regarding a risk that is not covered under your Commercial Property insurance. It points out that there is no coverage under such insurance for loss or damage caused by or resulting from any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease. The exclusion in this endorsement applies to all coverages provided by your Commercial Property insurance, including (if any) property damage and business income coverages.

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section H., **Definitions**.

A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this Coverage Part, means the type of property described in this section, **A.1.**, and limited in **A.2.**, Property Not Covered, if a Limit of Insurance is shown in the Declarations for that type of property.

a. Building, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:
 - (a) Machinery and
 - (b) Equipment;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
 - (a) Fire-extinguishing equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and
 - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
 - (a) Additions under construction, alterations and repairs to the building or structure;
 - (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property - Separation Of Coverage form:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) "Stock";
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others;
- (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove;
- (7) Leased personal property for which you have a contractual responsibility to insure, unless otherwise provided for under Personal Property Of Others.

c. Personal Property Of Others that is:

- (1) In your care, custody or control; and
- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

2. Property Not Covered

Covered Property does not include:

- a. Accounts, bills, currency, deeds, food stamps or other evidences of debt, money, notes or securities. Lottery tickets held for sale are not securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
 - (1) The lowest basement floor; or
 - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), water, growing crops or lawns;
- i. Personal property while airborne or water borne;
- j. Bulkheads, pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of a building;
- m. Underground pipes, flues or drains;
- n. Electronic data, except as provided under the Additional Coverage, Electronic Data. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data. This paragraph, n., does not apply to your "stock" of prepackaged software;

- o. The cost to replace or restore the information on valuable papers and records, including those which exist as electronic data. Valuable papers and records include but are not limited to proprietary information, books of account, deeds, manuscripts, abstracts, drawings and card index systems. Refer to the Coverage Extension for Valuable Papers And Records (Other Than Electronic Data) for limited coverage for valuable papers and records other than those which exist as electronic data;

- p. Vehicles or self-propelled machines (including aircraft or watercraft) that:

- (1) Are licensed for use on public roads; or
- (2) Are operated principally away from the described premises.

This paragraph does not apply to:

- (a) Vehicles or self-propelled machines or autos you manufacture, process or warehouse;
 - (b) Vehicles or self-propelled machines, other than autos, you hold for sale;
 - (c) Rowboats or canoes out of water at the described premises; or
 - (d) Trailers, but only to the extent provided for in the Coverage Extension for Non-owned Detached Trailers;
- q. The following property while outside of buildings:
 - (1) Grain, hay, straw or other crops;
 - (2) Fences, radio or television antennas (including satellite dishes) and their leadin wiring, masts or towers, trees, shrubs or plants (other than "stock" of trees, shrubs or plants), all except as provided in the Coverage Extensions.

3. Covered Causes Of Loss

See applicable Causes Of Loss Form as shown in the Declarations.

4. Additional Coverages

a. Debris Removal

- (1) Subject to Paragraphs (3) and (4), we will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.

(2) Debris Removal does not apply to costs to:

(a) Extract "pollutants" from land or water; or

(b) Remove, restore or replace polluted land or water.

(3) Subject to the exceptions in Paragraph (4), the following provisions apply:

(a) The most we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.

(b) Subject to **(a)** above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

(4) We will pay up to an additional \$10,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if **(4)(a)** and/or **(4)(b)** apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$10,000.

(5) Examples

The following examples assume that there is no Coinsurance penalty.

Example #1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
(\$10,000 is 20% of \$50,000)	

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

Example #2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 30,000
Debris Removal Expense Payable	
	Basic Amount \$ 10,500
	Additional Amount \$ 10,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$30,000) exceeds 25% of the loss payable plus the deductible (\$30,000 is 37.5% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$30,000 = \$109,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$10,000, the maximum payable under Paragraph (4). Thus the total payable for debris removal expense in this example is \$20,500; \$9,500 of the debris removal expense is not covered.

b. Preservation Of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000, unless a higher limit is shown in the Declarations, for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

No Deductible applies to this Additional Coverage.

d. Pollutant Clean-up And Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay under this Additional Coverage for each described premises is \$10,000 for the sum of all covered expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

e. Increased Cost Of Construction

- (1) This Additional Coverage applies only to buildings to which the Replacement Cost Optional Coverage applies.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with enforcement of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in e.(3) through e.(9) of this Additional Coverage.
- (3) The ordinance or law referred to in e.(2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises, and is in force at the time of loss.
- (4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
 - (a) You were required to comply with before the loss, even when the building was undamaged; and
 - (b) You failed to comply with.
- (5) Under this Additional Coverage, we will not pay for:
 - (a) The enforcement of any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria; or
 - (b) Any costs associated with the enforcement of an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungus", wet or dry rot or bacteria.

- (6) The most we will pay under this Additional Coverage, for each described building insured under this Coverage Form, is \$10,000 or 5% of the Limit of Insurance applicable to that building, whichever is less. If a damaged building is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage, for that damaged building, is the lesser of: \$10,000 or 5% times the value of the damaged building as of the time of loss times the applicable Coinsurance percentage.

The amount payable under this Additional Coverage is additional insurance.

- (7) With respect to this Additional Coverage:
- (a) We will not pay for the Increased Cost of Construction:
 - (i) Until the property is actually repaired or replaced, at the same or another premises; and
 - (ii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.
 - (b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction, subject to the provisions of e.(6) of this Additional Coverage, is the increased cost of construction at the same premises.
 - (c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction, subject to the provisions of e.(6) of this Additional Coverage, is the increased cost of construction at the new premises.
 - (8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such Exclusion would conflict with the provisions of this Additional Coverage.
 - (9) The costs addressed in the Loss Payment and Valuation Conditions, and the Replacement Cost Optional Coverage, in this Coverage Form, do not include the increased cost attributable to enforcement of an ordinance or law. The amount payable under

this Additional Coverage, as stated in e.(6) of this Additional Coverage, is not subject to such limitation.

f. Electronic Data

- (1) Under this Additional Coverage, electronic data has the meaning described under Property Not Covered, Electronic Data.
- (2) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore electronic data which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that electronic data is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the electronic data was stored, with blank media of substantially identical type.
- (3) The Covered Causes of Loss applicable to Your Business Personal Property apply to this Additional Coverage, Electronic Data, subject to the following:
 - (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage, Electronic Data, is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
 - (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage, Electronic Data, includes Collapse as set forth in that form.
 - (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage, Electronic Data.
 - (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, modify, maintain, repair or replace that system.

- (4) The most we will pay under this Additional Coverage, Electronic Data, is \$2,500 for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in but not after that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

5. Coverage Extensions

Except as otherwise provided, the following Extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

If a Coinsurance percentage of 80% or more, or a Value Reporting period symbol, is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers Building, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

(2) Your Business Personal Property

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:
 - (i) Business personal property, including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;

- (ii) Business personal property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations; or

- (iii) Business personal property that you newly acquire, located at the described premises.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

- (b) This Extension does not apply to:

- (i) Personal property of others that is temporarily in your possession in the course of installing or performing work on such property; or
- (ii) Personal property of others that is temporarily in your possession in the course of your manufacturing or wholesaling activities.

(3) Period Of Coverage

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as covered property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as covered property.

b. Personal Effects And Property Of Others

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees. This Extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

c. Valuable Papers And Records (Other Than Electronic Data)

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to the cost to replace or restore the lost information on valuable papers and records for which duplicates do not exist. But this Extension does not apply to valuable papers and records which exist as electronic data. Electronic data has the meaning described under Property Not Covered, Electronic Data.
- (2) If the Causes Of Loss - Special Form applies, coverage under this Extension is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (3) If the Causes Of Loss - Broad Form applies, coverage under this Extension includes Collapse as set forth in that form.
- (4) Under this Extension, the most we will pay to replace or restore the lost information is \$2,500 at each described premises, unless a higher limit is shown in the Declarations. Such amount is additional insurance. We will also pay for the cost of blank material for reproducing the records (whether or not duplicates exist), and (when there is a duplicate) for the cost of labor to transcribe or copy the records. The costs of blank material and labor are subject to the applicable Limit of Insurance on Your Business Personal Property and therefore coverage of such costs is not additional insurance.

d. Property Off-premises

- (1) You may extend the insurance provided by this Coverage Form to apply to your Covered Property while it is away from the described premises, if it is:
 - (a) Temporarily at a location you do not own, lease or operate;
 - (b) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
 - (c) At any fair, trade show or exhibition.
- (2) This Extension does not apply to property:
 - (a) In or on a vehicle; or
 - (b) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.

- (3) The most we will pay for loss or damage under this Extension is \$10,000.

e. Outdoor Property

You may extend the insurance provided by this Coverage Form to apply to your outdoor fences, radio and television antennas (including satellite dishes), trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant. These limits apply to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

f. Non-owned Detached Trailers

- (1) You may extend the insurance that applies to Your Business Personal Property to apply to loss or damage to trailers that you do not own, provided that:
 - (a) The trailer is used in your business;
 - (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
 - (c) You have a contractual responsibility to pay for loss or damage to the trailer.
- (2) We will not pay for any loss or damage that occurs:
 - (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion;
 - (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.
- (3) The most we will pay for loss or damage under this Extension is \$5,000, unless a higher limit is shown in the Declarations.

- (4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

Each of these Extensions is additional insurance unless otherwise indicated. The Additional Condition, Coinsurance, does not apply to these Extensions.

B. Exclusions And Limitations

See applicable Causes Of Loss Form as shown in the Declarations.

C. Limits Of Insurance

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

The most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$2,500 per sign in any one occurrence.

The amounts of insurance stated in the following Additional Coverages apply in accordance with the terms of such coverages and are separate from the Limit(s) of Insurance shown in the Declarations for any other coverage:

1. Fire Department Service Charge;
2. Pollutant Clean-up And Removal;
3. Increased Cost Of Construction; and
4. Electronic Data.

Payments under the Preservation Of Property Additional Coverage will not increase the applicable Limit of Insurance.

D. Deductible

In any one occurrence of loss or damage (hereinafter referred to as loss), we will first reduce the amount of loss if required by the Coinsurance Condition or the Agreed Value Optional Coverage. If the adjusted amount of loss is less than or equal to the Deductible, we will not pay for that loss. If the adjusted amount of loss exceeds the Deductible, we will then subtract the Deductible from the adjusted amount of loss, and will pay the resulting amount or the Limit of Insurance, whichever is less.

When the occurrence involves loss to more than one item of Covered Property and separate Limits of Insurance apply, the losses will not be combined in determining application of the Deductible. But the Deductible will be applied only once per occurrence.

EXAMPLE #1

(This example assumes there is no Coinsurance penalty.)

Deductible:	\$ 250
Limit of Insurance - Building #1:	\$ 60,000
Limit of Insurance - Building #2:	\$ 80,000
Loss to Building #1:	\$ 60,100
Loss to Building #2:	\$ 90,000

The amount of loss to Building #1 (\$60,100) is less than the sum (\$60,250) of the Limit of Insurance applicable to Building #1 plus the Deductible.

The Deductible will be subtracted from the amount of loss in calculating the loss payable for Building #1:

\$ 60,100
- 250
\$ 59,850 Loss Payable - Building #1

The Deductible applies once per occurrence and therefore is not subtracted in determining the amount of loss payable for Building #2. Loss payable for Building #2 is the Limit of Insurance of \$80,000.

Total amount of loss payable: \$59,850 + \$80,000 = \$139,850

EXAMPLE #2

(This example, too, assumes there is no Coinsurance penalty.)

The Deductible and Limits of Insurance are the same as those in Example #1.

Loss to Building #1:	\$70,000
(exceeds Limit of Insurance plus Deductible)	
Loss to Building #2:	\$90,000
(exceeds Limit of Insurance plus Deductible)	
Loss Payable - Building #1:	\$60,000
(Limit of Insurance)	
Loss Payable - Building #2:	\$80,000
(Limit of Insurance)	
Total amount of loss payable:	\$140,000

E. Loss Conditions

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

- a. You must see that the following are done in the event of loss or damage to Covered Property:
 - (1) Notify the police if a law may have been broken.
 - (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
 - (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
 - (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
 - (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
 - (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

4. Loss Payment

- a. In the event of loss or damage covered by this Coverage Form, at our option, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property, subject to **b.** below;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to **b.** below.

We will determine the value of lost or damaged property, or the cost of its repair or replacement, in accordance with the applicable terms of the Valuation Condition in this Coverage Form or any applicable provision which amends or supersedes the Valuation Condition.

- b. The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.
- c. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.
- d. We will not pay you more than your financial interest in the Covered Property.
- e. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.

- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:
 - (1) We have reached agreement with you on the amount of loss; or
 - (2) An appraisal award has been made.
- h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance, the Valuation and Coinsurance Conditions and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

5. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

6. Vacancy

a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in (1)(a) and (1)(b) below:

- (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
- (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31 % of its total square footage is:
 - (i) Rented to a lessee or sub-lessee and used by the lessee or sublessee to conduct its customary operations; and/or
 - (ii) Used by the building owner to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - (a) Vandalism;
 - (b) Sprinkler leakage, unless you have protected the system against freezing;
 - (c) Building glass breakage;
 - (d) Water damage;
 - (e) Theft; or
 - (f) Attempted theft.
- (2) With respect to Covered Causes of Loss other than those listed in b.(1)(a) through b.(1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

7. Valuation

We will determine the value of Covered Property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in b., c., d., and e. below.
- b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

The cost of building repairs or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

However, the following property will be valued at the actual cash value even when attached to the building:

- (1) Awnings or floor coverings;
 - (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
 - (3) Outdoor equipment or furniture.
- c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
- d. Glass at the cost of replacement with safety-glazing material if required by law.
- e. Tenants' Improvements and Betterments at:
- (1) Actual cash value of the lost or damaged property if you make repairs promptly.
 - (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.

- (3) Nothing if others pay for repairs or replacement.

F. Additional Conditions

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies.

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in Step (1);
- (3) Multiply the total amount of loss, before the application of any deductible, by the figure determined in Step (2); and
- (4) Subtract the deductible from the figure determined in Step (3).

We will pay the amount determined in Step (4) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

EXAMPLE #1 (UNDERINSURANCE)

When:	The value of the property is	\$ 250,000
	The Coinsurance percentage for it is	80%
	The Limit of Insurance for it is	\$ 100,000
	The Deductible is	\$ 250
	The amount of loss is	\$ 40,000

Step (1): $\$250,000 \times 80\% = \$200,000$
(the minimum amount of insurance to meet your Coinsurance requirements)

Step (2): $\$100,000 \div \$200,000 = .50$

Step (3): $\$40,000 \times .50 = \$20,000$

Step (4): $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

EXAMPLE #2 (ADEQUATE INSURANCE)

When:	The value of the property is	\$ 250,000
	The Coinsurance percentage for it is	80%
	The Limit of Insurance for it is	\$ 200,000
	The Deductible is	\$ 250
	The amount of loss is	\$ 40,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ($\$250,000 \times 80\%$). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$39,750 (\$40,000 amount of loss minus the deductible of \$250).

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

EXAMPLE #3

When:	The value of property is:	
	Building at Location #1	\$ 75,000
	Building at Location #2	\$ 100,000
	Personal Property at Location #2	\$ 75,000
		<u>\$ 250,000</u>
	The Coinsurance percentage for it is	90%
	The Limit of Insurance for Buildings and Personal Property at Locations #1 and #2 is	\$ 180,000
	The Deductible is	\$ 1,000
	The amount of loss is:	
	Building at Locations #2	\$ 30,000
	Personal Property at Location #2.	\$ 20,000
		<u>\$ 50,000</u>

Step (1): $\$250,000 \times 90\% = \$225,000$
(the minimum amount of insurance to meet your Coinsurance requirements and to avoid the penalty shown below)

Step (2): $\$180,000 \div \$225,000 = .80$

Step (3): $\$50,000 \times .80 = \$40,000$

Step (4): $\$40,000 - \$1,000 = \$39,000$

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

2. Mortgageholders

- The term mortgageholder includes trustee.
- We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
 - Pays any premium due under this Coverage Part at our request if you have failed to do so;
 - Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and

- Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this Coverage Part will then apply directly to the mortgageholder.

- If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:

- The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- If we cancel this policy, we will give written notice to the mortgageholder at least:

- 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
- 30 days before the effective date of cancellation if we cancel for any other reason.

- If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

G. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

1. Agreed Value

- The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.

c. The terms of this Optional Coverage apply only to loss or damage that occurs:

- (1) On or after the effective date of this Optional Coverage; and
- (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

2. Inflation Guard

a. The Limit of Insurance for property to which this Optional Coverage applied will automatically increase by the annual percentage shown in the Declarations.

b. The amount of increase will be:

- (1) The Limit of Insurance that applied on the most recent of the policy inception date, the policy anniversary date, or any other policy change amending the Limit of Insurance, times
- (2) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 8% is .08), times
- (3) The number of days since the beginning of the current policy year or the effective date of the most recent policy change amending the Limit of Insurance, divided by 365.

Example:

If: The applicable Limit of Insurance is \$ 100,000
The annual percentage increase is 8%
The number of days since the beginning of the policy year (or last policy change) is 146
The amount of increase is
 $\$100,000 \times .08 \times 146 \div 365 =$ \$ 3,200

3. Replacement Cost

a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Valuation Loss Condition of this Coverage Form.

b. This Optional Coverage does not apply to:

- (1) Personal property of others;
- (2) Contents of a residence;

(3) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or

(4) "Stock", unless the Including "Stock" option is shown in the Declarations.

Under the terms of this Replacement Cost Optional Coverage, tenants' improvements and betterments are not considered to be the personal property of others.

c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intention to do so within 180 days after the loss or damage.

d. We will not pay on a replacement cost basis for any loss or damage:

- (1) Until the lost or damaged property is actually repaired or replaced; and
- (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

With respect to tenants' improvements and betterments, the following also apply:

(3) If the conditions in d.(1) and d.(2) above are not met, the value of tenants' improvements and betterments will be determined as a proportion of your original cost, as set forth in the Valuation Loss Condition of this Coverage Form; and

(4) We will not pay for loss or damage to tenants' improvements and betterments if others pay for repairs or replacement.

e. We will not pay more for loss or damage on a replacement cost basis than the least of (1), (2) or (3), subject to f. below:

- (1) The Limit of Insurance applicable to the lost or damaged property;
- (2) The cost to replace the lost or damaged property with other property:
 - (a) Of comparable material and quality; and
 - (b) Used for the same purpose; or

- (3) The amount actually spent that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost described in e.(2) above is limited to the cost which would have been incurred if the building had been rebuilt at the original premises.

- f. The cost of repair or replacement does not include the increased cost attributable to enforcement of any ordinance or law regulating the construction, use or repair of any property.

4. Extension Of Replacement Cost To Personal Property Of Others

- a. If the Replacement Cost Optional Coverage is shown as applicable in the Declarations, then this Extension may also be shown as applicable. If the Declarations show this Extension as applicable, then Paragraph 3.b.(1) of the Replacement Cost Optional Coverage is deleted and all other provisions of the Replacement Cost Optional Coverage apply to replacement cost on personal property of others.

- b. With respect to replacement cost on the personal property of others, the following limitation applies:

If an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance.

H. Definitions

1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.
2. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
3. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

BUSINESS INCOME (AND EXTRA EXPENSE) COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **F., Definitions**.

A. Coverage

1. Business Income

Business Income means the:

- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred; and
- b. Continuing normal operating expenses incurred, including payroll.

For manufacturing risks, Net Income includes the net sales value of production.

Coverage is provided as described below for one or more of the following options for which a Limit of Insurance is shown in the Declarations:

- (1) Business Income including "Rental Value".
- (2) Business Income Other Than "Rental Value".
- (3) "Rental Value".

If option (1) above is selected, the term Business Income will include "Rental Value". If option (3) above is selected, the term Business Income will mean "Rental Value" only.

If Limits of Insurance are shown under more than one of the above options, the provisions of this Coverage Part apply separately to each.

We will pay for the actual loss of Business Income you sustain due to the necessary "suspension" of your "operations" during the "period of restoration". The "suspension" must be caused by direct physical loss of or damage to property at premises which are described in the Declarations and for which a Business Income Limit of Insurance is shown in the Declarations. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of the site at which the described premises are located.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of the site at which the described premises are located, your premises means:

- (a) The portion of the building which you rent, lease or occupy; and

- (b) Any area within the building or on the site at which the described premises are located, if that area services, or is used to gain access to, the described premises.

2. Extra Expense

- a. Extra Expense Coverage is provided at the premises described in the Declarations only if the Declarations show that Business Income Coverage applies at that premises.
- b. Extra Expense means necessary expenses you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property caused by or resulting from a Covered Cause of Loss.

We will pay Extra Expense (other than the expense to repair or replace property) to:

- (1) Avoid or minimize the "suspension" of business and to continue operations at the described premises or at replacement premises or temporary locations, including relocation expenses and costs to equip and operate the replacement location or temporary location.
- (2) Minimize the "suspension" of business if you cannot continue "operations".

We will also pay Extra Expense to repair or replace property, but only to the extent it reduces the amount of loss that otherwise would have been payable under this Coverage Form.

3. Covered Causes Of Loss, Exclusions And Limitations

See applicable Causes Of Loss Form as shown in the Declarations.

4. Additional Limitation - Interruption Of Computer Operations

- a. Coverage for Business Income does not apply when a "suspension" of "operations" is caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage - Interruption Of Computer Operations.

- b. Coverage for Extra Expense does not apply when action is taken to avoid or minimize a "suspension" of "operations" caused by destruction or corruption of electronic data, or any loss or damage to electronic data, except as provided under the Additional Coverage - Interruption Of Computer Operations.
- c. Electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

5. Additional Coverages

a. Civil Authority

In this Additional Coverage - Civil Authority, the described premises are premises to which this Coverage Form applies, as shown in the Declarations.

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
 - (2) When your Civil Authority Coverage for Business Income ends;
- whichever is later.

b. Alterations And New Buildings

We will pay for the actual loss of Business Income you sustain and necessary Extra Expense you incur due to direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss to:

- (1) New buildings or structures, whether complete or under construction;
- (2) Alterations or additions to existing buildings or structures; and
- (3) Machinery, equipment, supplies or building materials located on or within 100 feet of the described premises and:
 - (a) Used in the construction, alterations or additions; or
 - (b) Incidental to the occupancy of new buildings.

If such direct physical loss or damage delays the start of "operations", the "period of restoration" for Business Income Coverage will begin on the date "operations" would have begun if the direct physical loss or damage had not occurred.

c. Extended Business Income

- (1) Business Income Other Than "Rental Value"

If the necessary "suspension" of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

- (a) Begins on the date property (except "finished stock") is actually repaired, rebuilt or replaced and "operations" are resumed; and
- (b) Ends on the earlier of:
 - (i) The date you could restore your "operations", with reasonable speed, to the level which would generate the business income amount that would have existed if no direct physical loss or damage had occurred; or

- (ii) 30 consecutive days after the date determined in (1)(a) above.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(2) "Rental Value"

If the necessary "suspension" of your "operations" produces a "Rental Value" loss payable under this policy, we will pay for the actual loss of "Rental Value" you incur during the period that:

- (a) Begins on the date property is actually repaired, rebuilt or replaced and tenant-ability is restored; and
- (b) Ends on the earlier of:
- (i) The date you could restore tenant occupancy, with reasonable speed, to the level which would generate the "Rental Value" that would have existed if no direct physical loss or damage had occurred; or
- (ii) 30 consecutive days after the date determined in (2)(a) above.

However, Extended Business Income does not apply to loss of "Rental Value" incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

Loss of "Rental Value" must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

d. Interruption Of Computer Operations

- (1) Under this Additional Coverage, electronic data has the meaning described under Additional Limitation - Interruption Of Computer Operations.
- (2) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a "suspension" of "operations" caused by an interruption in computer operations due to destruction or corruption of electronic data due to a Covered Cause of Loss.

- (3) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:

- (a) If the Causes Of Loss - Special Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations is limited to the "specified causes of loss" as defined in that form, and Collapse as set forth in that form.
- (b) If the Causes Of Loss - Broad Form applies, coverage under this Additional Coverage - Interruption Of Computer Operations includes Collapse as set forth in that form.
- (c) If the Causes Of Loss Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage - Interruption Of Computer Operations.
- (d) The Covered Causes of Loss include a virus, harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including electronic data) by any employee, including a temporary or leased employee, or by an entity retained by you or for you to inspect, design, install, maintain, repair or replace that system.

- (4) The most we will pay under this Additional Coverage - Interruption of Computer Operations is \$2,500 for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.

- (5) This Additional Coverage - Interruption in Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (4) above has not been exhausted.

6. Coverage Extension

If a Coinsurance percentage of 50% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

Newly Acquired Locations

- a. You may extend your Business Income and Extra Expense Coverages to apply to property at any location you acquire other than fairs or exhibitions.
- b. The most we will pay under this Extension, for the sum of Business Income loss and Extra Expense incurred, is \$100,000 at each location.
- c. Insurance under this Extension for each newly acquired location will end when any of the following first occurs:
 - (1) This policy expires;
 - (2) 30 days expire after you acquire or begin to construct the property; or
 - (3) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property.

This Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

B. Limits Of Insurance

The most we will pay for loss in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

Payments under the following coverages will not increase the applicable Limit of Insurance:

1. Alterations And New Buildings;
2. Civil Authority;
3. Extra Expense; or
4. Extended Business Income.

The amounts of insurance stated in the Interruption Of Computer Operations Additional Coverage and the Newly Acquired Locations Coverage Extension apply in accordance with the terms of those coverages and are separate from the Limit(s) of Insurance shown in the Declarations for any other coverage.

C. Loss Conditions

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Appraisal

If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser.

The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of Net Income and operating expense or amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Loss

- a. You must see that the following are done in the event of loss:
 - (1) Notify the police if a law may have been broken.
 - (2) Give us prompt notice of the direct physical loss or damage. Include a description of the property involved.
 - (3) As soon as possible, give us a description of how, when, and where the direct physical loss or damage occurred.
 - (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limit of Insurance. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
 - (5) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.

Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.

- (6) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (7) Cooperate with us in the investigation or settlement of the claim.
- (8) If you intend to continue your business, you must resume all or part of your "operations" as quickly as possible.

b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

3. Loss Determination

a. The amount of Business Income loss will be determined based on:

- (1) The Net Income of the business before the direct physical loss or damage occurred;
- (2) The likely Net Income of the business if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses;
- (3) The operating expenses, including payroll expenses, necessary to resume "operations" with the same quality of service that existed just before the direct physical loss or damage; and
- (4) Other relevant sources of information, including:
 - (a) Your financial records and accounting procedures;
 - (b) Bills, invoices and other vouchers; and
 - (c) Deeds, liens or contracts.

b. The amount of Extra Expense will be determined based on:

- (1) All expenses that exceed the normal operating expenses that would have been incurred by "operations" during the "period of restoration" if no direct physical loss or damage had occurred. We will deduct from the total of such expenses:

(a) The salvage value that remains of any property bought for temporary use during the "period of restoration", once "operations" are resumed; and

(b) Any Extra Expense that is paid for by other insurance, except for insurance that is written subject to the same plan, terms, conditions and provisions as this insurance; and

- (2) Necessary expenses that reduce the Business Income loss that otherwise would have been incurred.

c. Resumption Of Operations

We will reduce the amount of your:

(1) Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.

(2) Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

d. If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.

4. Loss Payment

We will pay for covered loss within 30 days after we receive the sworn proof of loss, if you have complied with all of the terms of this Coverage Part and:

- a. We have reached agreement with you on the amount of loss; or
- b. An appraisal award has been made.

D. Additional Condition

Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies in addition to the Common Policy Conditions and the Commercial Property Conditions.

We will not pay the full amount of any Business Income loss if the Limit of Insurance for Business Income is less than:

- 1. The Coinsurance percentage shown for Business Income in the Declarations; times
- 2. The sum of:
 - a. The Net Income (Net Profit or Loss before income taxes), and

b. Operating expenses, including payroll expenses,

that would have been earned or incurred (had no loss occurred) by your "operations" at the described premises for the 12 months following the inception, or last previous anniversary date, of this policy (whichever is later).

Instead, we will determine the most we will pay using the following steps:

Step (1) Multiply the Net Income and operating expense for the 12 months following the inception, or last previous anniversary date, of this policy by the Coinsurance percentage;

Step (2) Divide the Limit of Insurance for the described premises by the figure determined in Step (1); and

Step (3) Multiply the total amount of loss by the figure determined in Step (2).

We will pay the amount determined in Step (3) or the limit of insurance, whichever is less. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

In determining operating expenses for the purpose of applying the Coinsurance condition, the following expenses, if applicable, shall be deducted from the total of all operating expenses:

1. Prepaid freight – outgoing;
2. Returns and allowances;
3. Discounts;
4. Bad debts;
5. Collection expenses;
6. Cost of raw stock and factory supplies consumed (including transportation charges);
7. Cost of merchandise sold (including transportation charges);
8. Cost of other supplies consumed (including transportation charges);
9. Cost of services purchased from outsiders (not employees) to resell, that do not continue under contract;
10. Power, heat and refrigeration expenses that do not continue under contract (if Form CP 15 11 is attached);
11. All ordinary payroll expenses or the amount of payroll expense excluded (if Form CP 15 10 is attached); and

12. Special deductions for mining properties (royalties unless specifically included in coverage; actual depletion commonly known as unit or cost depletion – not percentage depletion; welfare and retirement fund charges based on tonnage; hired trucks).

EXAMPLE #1 (UNDERINSURANCE)

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been \$ 400,000
The Coinsurance percentage is 50%
The Limit of Insurance is \$ 150,000
The amount of loss is \$ 80,000

Step 1: $\$400,000 \times 50\% = \$200,000$
(the minimum amount of insurance to meet your Coinsurance requirements)

Step 2: $\$150,000 \div \$200,000 = .75$

Step 3: $\$80,000 \times .75 = \$60,000$

We will pay no more than \$60,000. The remaining \$20,000 is not covered.

EXAMPLE #2 (ADEQUATE INSURANCE)

When: The Net Income and operating expenses for the 12 months following the inception, or last previous anniversary date, of this policy at the described premises would have been \$ 400,000
The Coinsurance percentage is 50%
The Limit of Insurance is \$ 200,000
The amount of loss is \$ 80,000

The minimum amount of insurance to meet your Coinsurance requirement is \$200,000 ($\$400,000 \times 50\%$). Therefore, the Limit of Insurance in this example is adequate and no penalty applies. We will pay no more than \$80,000 (amount of loss).

This condition does not apply to Extra Expense Coverage.

E. Optional Coverages

If shown as applicable in the Declarations, the following Optional Coverages apply separately to each item.

1. Maximum Period Of Indemnity

- a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.

b. The most we will pay for the total of Business Income loss and Extra Expense is the lesser of:

(1) The amount of loss sustained and expenses incurred during the 120 days immediately following the beginning of the "period of restoration"; or

(2) The Limit of Insurance shown in the Declarations.

2. Monthly Limit Of Indemnity

a. The Additional Condition, Coinsurance, does not apply to this Coverage Form at the described premises to which this Optional Coverage applies.

b. The most we will pay for loss of Business Income in each period of 30 consecutive days after the beginning of the "period of restoration" is:

(1) The Limit of Insurance, multiplied by

(2) The fraction shown in the Declarations for this Optional Coverage.

EXAMPLE

When:	The Limit of Insurance is	\$ 120,000
	The fraction shown in the Declarations for this Optional Coverage is	1/4
	The most we will pay for loss in each period of 30 consecutive days is:	\$ 30,000
	(\$120,000 x 1/4 = \$30,000)	
	If, in this example, the actual amount of loss is:	
	Days 1-30	\$ 40,000
	Days 31-60	20,000
	Days 61-90	30,000
		\$ 90,000
	We will pay:	
	Days 1-30	\$ 30,000
	Days 31-60	20,000
	Days 61-90	30,000
		\$ 80,000

The remaining \$10,000 is not covered.

3. Business Income Agreed Value

a. To activate this Optional Coverage:

(1) A Business Income Report/Work Sheet must be submitted to us and must show financial data for your "operations":

(a) During the 12 months prior to the date of the Work Sheet; and

(b) Estimated for the 12 months immediately following the inception of this Optional Coverage.

(2) The Declarations must indicate that the Business Income Agreed Value Optional Coverage applies, and an Agreed Value must be shown in the Declarations. The Agreed Value should be at least equal to:

(a) The Coinsurance percentage shown in the Declarations; multiplied by

(b) The amount of Net Income and operating expenses for the following 12 months you report on the Work Sheet.

b. The Additional Condition, Coinsurance, is suspended until:

(1) 12 months after the effective date of this Optional Coverage; or

(2) The expiration date of this policy; whichever occurs first.

c. We will reinstate the Additional Condition, Coinsurance, automatically if you do not submit a new Work Sheet and Agreed Value:

(1) Within 12 months of the effective date of this Optional Coverage; or

(2) When you request a change in your Business Income Limit of Insurance.

d. If the Business Income Limit of Insurance is less than the Agreed Value, we will not pay more of any loss than the amount of loss multiplied by:

(1) The Business Income Limit of Insurance; divided by

(2) The Agreed Value.

EXAMPLE

When:	The Limit of Insurance is	\$ 100,000
	The Agreed Value is	\$ 200,000
	The amount of loss is	\$ 80,000

Step (1): $\$100,000 \div \$200,000 = .50$

Step (2): $.50 \times \$80,000 = \$40,000$

We will pay \$40,000. The remaining \$40,000 is not covered.

4. Extended Period Of Indemnity

Under Paragraph A.5.c, Extended Business Income, the number 30 in Subparagraphs (1)(b) and (2)(b) is replaced by the number shown in the Declarations for this Optional Coverage.

F. Definitions

1. "Finished stock" means stock you have manufactured.

"Finished stock" also includes whiskey and alcoholic products being aged, unless there is a Coinurance percentage shown for Business Income in the Declarations.

"Finished stock" does not include stock you have manufactured that is held for sale on the premises of any retail outlet insured under this Coverage Part.

2. "Operations" means:

- a. Your business activities occurring at the described premises; and
- b. The tenantability of the described premises, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.

3. "Period of restoration" means the period of time that:

- a. Begins:

- (1) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
- (2) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;

caused by or resulting from any Covered Cause of Loss at the described premises; and

- b. Ends on the earlier of:

- (1) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or
- (2) The date when business is resumed at a new permanent location.

"Period of restoration" does not include any increased period required due to the enforcement of any ordinance or law that:

- (1) Regulates the construction, use or repair, or requires the tearing down of any property; or

- (2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

4. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

5. "Rental Value" means Business Income that consists of:

- a. Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred as rental income from tenant occupancy of the premises described in the Declarations as furnished and equipped by you, including fair rental value of any portion of the described premises which is occupied by you; and

- b. Continuing normal operating expenses incurred in connection with that premises, including:

- (1) Payroll; and

- (2) The amount of charges which are the legal obligation of the tenant(s) but would otherwise be your obligations.

6. "Suspension" means:

- a. The slowdown or cessation of your business activities; or

- b. That a part or all of the described premises is rendered untenable, if coverage for Business Income Including "Rental Value" or "Rental Value" applies.

COMMERCIAL PROPERTY CONDITIONS

This Coverage Part is subject to the following conditions, the Common Policy Conditions and applicable Loss Conditions and Additional Conditions in Commercial Property Coverage Forms.

A. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Part is void in any case of fraud by you as it relates to this Coverage Part at any time. It is also void if you or any other insured, at any time, intentionally conceal or misrepresent a material fact concerning:

1. This Coverage Part;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this Coverage Part.

B. CONTROL OF PROPERTY

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Part at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

C. INSURANCE UNDER TWO OR MORE COVERAGES

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

D. LEGAL ACTION AGAINST US

No one may bring a legal action against us under this Coverage Part unless:

1. There has been full compliance with all of the terms of this Coverage Part; and
2. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

E. LIBERALIZATION

If we adopt any revision that would broaden the coverage under this Coverage Part without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

F. NO BENEFIT TO BAILEE

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

G. OTHER INSURANCE

1. You may have other insurance subject to the same plan, terms, conditions and provisions as

the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.

2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

H. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Part:

1. We cover loss or damage commencing:
 - a. During the policy period shown in the Declarations; and
 - b. Within the coverage territory.
2. The coverage territory is:
 - a. The United States of America (including its territories and possessions);
 - b. Puerto Rico; and
 - c. Canada.

1. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

1. Prior to a loss to your Covered Property or Covered Income.
2. After a loss to your Covered Property or Covered Income only if, at time of loss, that party is one of the following:
 - a. Someone insured by this insurance;
 - b. A business firm:
 - (1) Owned or controlled by you; or
 - (2) That owns or controls you; or
 - c. Your tenant.

This will not restrict your insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

A. If this policy covers the interest of the owner of any of the following types of buildings or structures:

1. Residential (except 1 or 2 family buildings or structures);
2. Commercial; or
3. Industrial;

the following provision is added:

Before payment to you for loss or damage to the above buildings or structures caused by or resulting from fire, we will:

- (1) Deduct from your payment the claim of any tax district that issues a certificate of lien in accordance with the Insurance Law; and
- (2) Pay directly to the tax district the amount of the claim.

When we pay that claim, we will have no obligation to pay the amount of that claim to you. Our payment of that claim within 30 days of our receipt of the certificate of lien will be a conclusive presumption that the claim was valid and properly paid.

B. The following is added with respect to any Condition of this Coverage Part which requires you to notify us of loss or to notify us of an accident, claim or "suit":

1. Notice given by or on your behalf; or
2. Written notice by or on behalf of any claimant;

to any of our agents in New York State, which adequately identifies you, will be the same as notice to us.

C. Legal Action Against Us

1. The **Legal Action Against Us** Loss Condition in the Legal Liability Coverage Form is replaced by the following:

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from you; or

- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against you; but we will not be liable for damages that are not payable under the terms of this Coverage Form or that are in excess of the Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, you and the claimant or the claimant's legal representative.

2. Paragraph b. of Additional Condition H.5. Legal Action Against Us in the Mortgageholders Errors And Omissions Coverage Form is replaced by the following:

- b. No person or organization has a right under Coverages C and D:

- (1) To join us as a party or otherwise bring us into a "suit" asking for damages from you; or
- (2) To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against you; but we will not be liable for damages that are not payable under the terms of this Coverage Form or that are in excess of the Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, you and the claimant or the claimant's legal representative.

D. The Examination Of Your Books And Records Common Policy Condition is replaced by the following:

Examination Of Your Books And Records

1. Except as provided in 2. below, we may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

2. We will conduct an audit to determine the final premium due or to be refunded, for coverage for which an advance or deposit premium was paid based on estimated exposure. But the audit may be waived if:

- a. The total annual premium attributable to the auditable exposure base is not reasonably expected to exceed \$1,500; or
- b. The policy requires notification to the insurer with the specific identification of any additional exposure units (e.g., buildings) for which coverage is requested.

If the audit is not waived, it must be completed within 180 days after:

- a. The expiration date of the policy; or
- b. The anniversary date, if this is a continuous policy or a policy written for a term longer than one year.

E. The following sentence is deleted from Paragraph A. in the Legal Liability Coverage Form:

We will have the right and duty to defend any "suit" seeking those damages.

The following sentence is added to Paragraph A. in the Legal Liability Coverage Form:

We will have the right and duty to defend any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent.

F. The following sentence is deleted from Paragraph A.3. in the Mortgageholders Errors And Omissions Coverage Form:

We will have the right and duty to defend any "suit" seeking those damages.

The following is added to Paragraph A.3. in the Mortgageholders Errors And Omissions Coverage Form:

We will have the right and duty to defend any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent.

G. The following Condition is added to Paragraph D. of the Legal Liability Coverage Form and Paragraph H. of the Mortgageholders Errors And Omissions Coverage Form:

Transfer Of Duties When A Limit Of Insurance Is Used Up

1. If we conclude that, based on claims or "suits" which have been reported to us and to which this insurance may apply, a Limit of Insurance is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.

2. When the Limit of Insurance has actually been used up in the payment of judgments or settlements:

a. We will notify the first Named Insured, in writing, as soon as practicable, that:

- (1) Such a limit has actually been used up; and
- (2) Our duty to defend "suits" seeking damages subject to that limit has also ended.

b. We will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and "suits" seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claims and "suits".

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any claim or "suit" seeking damages that would have been subject to that limit, had it not been used up, if the claim or "suit" is reported to us after that limit of insurance has been used up.

c. The first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.

3. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with Paragraph 2.b. above.

The duty of the first Named Insured to reimburse us will begin on:

- a. The date on which the applicable limit of insurance is used up, if we sent notice in accordance with Paragraph 1. above; or
- b. The date on which we sent notice in accordance with Paragraph 2.a. above, if we did not send notice in accordance with Paragraph 1. above.

4. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

H. Except as provided in I. below, the Appraisal Condition is replaced by the following:

Appraisal

1. If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such demand.
2. If we or you fail to proceed with the appraisal of the covered loss after a written demand is made by either party, then either party may apply to a court having jurisdiction for an order directing the party that failed to proceed with the appraisal to comply with the demand for the appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such order.
3. The two appraisers will select an umpire. If they cannot agree within 15 days upon such umpire, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding.
4. Each party will:
 - a. Pay its chosen appraiser; and
 - b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

I. The Appraisal Condition in:

1. Business Income (And Extra Expense) Coverage Form **CP 00 30**; and
2. Business Income (Without Extra Expense) Coverage Form **CP 00 32**;

is replaced by the following:

Appraisal

1. If we and you disagree on the amount of Net Income and operating expense or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such demand.

2. If we or you fail to proceed with the appraisal of the covered loss after a written demand is made by either party, then either party may apply to a court having jurisdiction for an order directing the party that failed to proceed with the appraisal to comply with the demand for the appraisal of the loss. In this event, each party will select a competent and impartial appraiser and notify the other of the appraiser selected within 20 days of such order.

3. The two appraisers will select an umpire. If they cannot agree within 15 days upon such umpire, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of Net Income and operating expense and the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding.

4. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

J. The following provision is added to the Commercial Property Coverage Part:

Estimation Of Claims

Upon request, we will furnish you or your representative with a written estimate of damages to real property specifying all deductions, provided such an estimate has been prepared by us or has been prepared on our behalf for our own purposes. This estimate will be provided within thirty days after your request or its preparation, whichever is later.

K. The following provision is added to the **Legal Liability Coverage Form** and supersedes any provision to the contrary:

Failure to give prompt notice to us, as required under this Coverage Form, shall not invalidate any claim made by you or any other claimant, unless the failure to provide such timely notice has prejudiced us. However, no claim made by you or any other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES -
FUNGUS, WET ROT AND DRY ROT**

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

- A.** In the Causes Of Loss - Basic Form, Causes Of Loss - Broad Form, Causes Of Loss - Special Form, and Mortgageholders Errors And Omissions Coverage Form, the exclusion titled "Fungus", Wet Rot, Dry Rot And Bacteria and the Additional Coverage - Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria are deleted. Under these forms, the following exclusion is added:

We will not pay for loss or damage caused by or resulting from "fungus", wet rot or dry rot. However, this exclusion does not apply when "fungus", wet rot or dry rot results from a Covered Cause of Loss.

- B.** In the Building And Personal Property Coverage Form and the Condominium Association Coverage Form, under the Additional Coverage - Increased Cost Of Construction, Paragraph **A.4.e.(5)** is replaced by the following:

Under this Additional Coverage, we will not pay for:

1. The enforcement of any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants"; or
2. Any costs associated with the enforcement of an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

- C.** Paragraph **C.** of Ordinance Or Law Coverage Endorsement **CP 04 05** is replaced by the following:

We will not pay under Coverage **A**, **B** or **C** of this endorsement for:

1. Enforcement of any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants"; or
2. The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

- D.** Paragraph **A.** of Ordinance Or Law - Increased Period Of Restoration Endorsement **CP 15 31** is replaced by the following:

If a Covered Cause of Loss occurs to property at the premises described in the Declarations, coverage is extended to include the amount of actual and necessary loss you sustain during the increased period of "suspension" of "operations" caused by or resulting from the enforcement of any ordinance or law that:

1. Regulates the construction or repair of any property;
2. Requires the tearing down of parts of any property not damaged by a Covered Cause of Loss; and
3. Is in force at the time of loss.

However, coverage is not extended under this endorsement to include loss caused by or resulting from the enforcement of any ordinance or law which requires:

1. The demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants"; or
2. Any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

- E.** Paragraph **E.3.** of Functional Building Valuation Endorsement **CP 04 38** is replaced by the following:

We will not pay under this endorsement for:

1. Enforcement of any ordinance or law which requires the demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants"; or
2. The costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK - EXCLUSION OF LOSS
DUE TO VIRUS OR BACTERIA**

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

- A.** The exclusion set forth in Paragraph **B.** applies to all coverage under all forms and endorsements that comprise this Coverage Part, including but not limited to forms or endorsements that cover property damage to buildings or personal property and forms or endorsements that cover business income, extra expense or action of civil authority.
- B.** We will not pay for loss or damage caused by or resulting from any virus, bacterium or other micro-organism that induces or is capable of inducing physical distress, illness or disease.

However, this exclusion does not apply to loss or damage caused by or resulting from "fungus", wet rot or dry rot. Such loss or damage is addressed in a separate exclusion in this Coverage Part.

- C.** The terms of the exclusion in Paragraph **B.**, or the inapplicability of this exclusion to a particular loss, do not serve to create coverage for any loss that would otherwise be excluded under this Coverage Part.

CAUSES OF LOSS - SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section G., Definitions.

A. Covered Causes Of Loss

When Special is shown in the Declarations, Covered Causes of Loss means Risks Of Direct Physical Loss unless the loss is:

1. Excluded in Section B., Exclusions; or
2. Limited in Section C., Limitations; that follow.

B. Exclusions

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Ordinance Or Law

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

This exclusion, Ordinance Or Law, applies whether the loss results from:

- (a) An ordinance or law that is enforced even if the property has not been damaged; or
- (b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property, or removal of its debris, following a physical loss to that property.

b. Earth Movement

- (1) Earthquake, including any earth sinking, rising or shifting related to such event;
- (2) Landslide, including any earth sinking, rising or shifting related to such event;
- (3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;
- (4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other dis- arrangement of foundations or other parts of realty. Soil conditions include contrac- tion, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in b.(1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

- (5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or Volcanic Action, we will pay for the loss or damage caused by that fire, building glass breakage or Volcanic Action.

Volcanic Action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic Action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

e. Utility Services

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

- (1) Originates away from the described premises; or

- (2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows from a sewer, drain or sump; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
- (a) Foundations, walls, floors or paved surfaces;
- (b) Basements, whether paved or not; or
- (c) Doors, windows or other openings.

But if Water, as described in **g.(1)** through **g.(4)** above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

h. "Fungus", Wet Rot, Dry Rot And Bacteria

Presence, growth, proliferation, spread or any activity of "fungus", wet or dry rot or bacteria.

But if "fungus", wet or dry rot or bacteria results in a Covered Cause of Loss, we will pay for the loss or damage caused by that specified Cause of Loss.

This exclusion does not apply:

1. When "fungus", wet or dry rot or bacteria results from fire or lightning; or
2. To the extent that coverage is provided in the Additional Coverage - Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria with respect to loss or damage by a cause of loss other than fire or lightning.

Exclusions **B.1.a.** through **B.1.h.** apply whether or not the loss event results in widespread damage or affects a substantial area.

2. We will not pay for loss or damage caused by or resulting from any of the following:

a. Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (a) Electrical current, including arcing;
- (b) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (c) Pulse of electromagnetic energy; or
- (d) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by that fire.

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d. (1) Wear and tear;
- (2) Rust, or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;

- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force. But if mechanical breakdown results in elevator collision, we will pay for the loss or damage caused by that elevator collision.
- (7) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if an excluded cause of loss that is listed in 2.d.(1) through (7) results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- f. Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.
- g. Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:
 - (1) You do your best to maintain heat in the building or structure; or
 - (2) You drain the equipment and shut off the supply if the heat is not maintained.
- h. Dishonest or criminal act by you, any of your partners, members, officers, managers, employees (including leased employees), directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:
 - (1) Acting alone or in collusion with others; or

- (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees (including leased employees); but theft by employees (including leased employees) is not covered.

- i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j. Rain, snow, ice or sleet to personal property in the open.
- k. Collapse, including any of the following conditions of property or any part of the property:

- (1) An abrupt falling down or caving in;
- (2) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (3) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to (1) or (2) above.

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

This exclusion, k., does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage - Collapse; or
- (b) To collapse caused by one or more of the following:
 - (i) The "specified causes of loss";
 - (ii) Breakage of building glass;
 - (iii) Weight of rain that collects on a roof; or
 - (iv) Weight of people or personal property.

- l. Discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This Exclusion, l., does not apply to damage to glass caused by chemicals applied to the glass.

m. Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

3. We will not pay for loss or damage caused by or resulting from any of the following, 3.a. through 3.c. But if an excluded cause of loss that is listed in 3.a. through 3.c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph 1. above to produce the loss or damage.

b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

c. Faulty, inadequate or defective:

(1) Planning, zoning, development, surveying, siting;

(2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

(3) Materials used in repair, construction, renovation or remodeling; or

(4) Maintenance;

of part or all of any property on or off the described premises.

4. Special Exclusions

The following provisions apply only to the specified Coverage Forms.

a. **Business Income (And Extra Expense) Coverage Form, Business Income (Without Extra Expense) Coverage Form, or Extra Expense Coverage Form**

We will not pay for:

(1) Any loss caused by or resulting from:

(a) Damage or destruction of "finished stock"; or

(b) The time required to reproduce "finished stock".

This exclusion does not apply to Extra Expense.

(2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers.

(3) Any increase of loss caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the "suspension" of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage and the Extended Period Of Indemnity Optional Coverage or any variation of these.

(4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".

(5) Any other consequential loss.

b. Leasehold Interest Coverage Form

(1) Paragraph B.1.a. Ordinance Or Law, does not apply to insurance under this Coverage Form.

(2) We will not pay for any loss caused by:

(a) Your cancelling the lease;

(b) The suspension, lapse or cancellation of any license; or

(c) Any other consequential loss.

c. Legal Liability Coverage Form

(1) The following exclusions do not apply to insurance under this Coverage Form:

(a) Paragraph B.1.a., Ordinance Or Law;

(b) Paragraph B.1.c., Governmental Action;

(c) Paragraph B.1.d., Nuclear Hazard;

(d) Paragraph B.1.e., Utility Services; and

(e) Paragraph B.1.f., War And Military Action.

(2) The following additional exclusions apply to insurance under this Coverage Form:

(a) Contractual Liability

We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement. But this exclusion does not apply to a written lease agreement in which you have assumed liability for building damage resulting from an actual or attempted burglary or robbery, provided that:

- (i) Your assumption of liability was executed prior to the accident; and
- (ii) The building is Covered Property under this Coverage Form.

(b) Nuclear Hazard

We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

5. Additional Exclusion

The following provisions apply only to the specified property.

LOSS OR DAMAGE TO PRODUCTS

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

C. Limitations

The following limitations apply to all policy forms and endorsements, unless otherwise stated.

- 1. We will not pay for loss of or damage to property, as described and limited in this section. In addition, we will not pay for any loss that is a consequence of loss or damage as described and limited in this section.

- a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

- b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.

- c. The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

- (1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

- d. Building materials and supplies not attached as part of the building or structure, caused by or resulting from theft.

However, this limitation does not apply to:

- (1) Building materials and supplies held for sale by you, unless they are insured under the Builders Risk Coverage Form; or

- (2) Business Income Coverage or Extra Expense Coverage.

- e. Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property.

- f. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.

- 2. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:

- a. Animals, and then only if they are killed or their destruction is made necessary.

- b. Fragile articles such as statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:

- (1) Glass; or

- (2) Containers of property held for sale.

- c. Builders' machinery, tools and equipment owned by you or entrusted to you, provided such property is Covered Property.

However, this limitation does not apply:

- (1) If the property is located on or within 100 feet of the described premises, unless the premises is insured under the Builders Risk Coverage Form; or

- (2) To Business Income Coverage or to Extra Expense Coverage.

3. The special limit shown for each category, a. through d., is the total limit for loss of or damage to all property in that category. The special limit applies to any one occurrence of theft, regardless of the types or number of articles that are lost or damaged in that occurrence. The special limits are:

- a. \$2,500 for furs, fur garments and garments trimmed with fur.
- b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- c. \$2,500 for patterns, dies, molds and forms.
- d. \$250 for stamps, tickets, including lottery tickets held for sale, and letters of credit.

These special limits are part of, not in addition to, the Limit of Insurance applicable to the Covered Property.

This limitation, C.3., does not apply to Business Income Coverage or to Extra Expense Coverage.

4. We will not pay the cost to repair any defect to a system or appliance from which water, other liquid, powder or molten material escapes. But we will pay the cost to repair or replace damaged parts of fire-extinguishing equipment if the damage:

- a. Results in discharge of any substance from an automatic fire protection system; or
- b. Is directly caused by freezing.

However, this limitation does not apply to Business Income Coverage or to Extra Expense Coverage.

D. Additional Coverage -Collapse

The coverage provided under this Additional Coverage - Collapse applies only to an abrupt collapse as described and limited in D.1. through D.7.

1. For the purpose of this Additional Coverage - Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.

2. We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this Coverage Form or that contains Covered Property insured under this Coverage Form, if such collapse is caused by one or more of the following:

- a. Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;
- b. Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;
- c. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.
- d. Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:

- (1) A cause of loss listed in 2.a. or 2.b.;
- (2) One or more of the "specified causes of loss";
- (3) Breakage of building glass;
- (4) Weight of people or personal property; or
- (5) Weight of rain that collects on a roof.

3. This **Additional Coverage - Collapse** does not apply to:

- a. A building or any part of a building that is in danger of falling down or caving in;
- b. A part of a building that is standing, even if it has separated from another part of the building; or
- c. A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

4. With respect to the following property:
- a. Outdoor radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers;
 - b. Awnings, gutters and downspouts;
 - c. Yard fixtures;
 - d. Outdoor swimming pools;
 - e. Fences;
 - f. Piers, wharves and docks;
 - g. Beach or diving platforms or appurtenances;
 - h. Retaining walls; and
 - i. Walks, roadways and other paved surfaces;
- if an abrupt collapse is caused by a cause of loss listed in 2.a. through 2.d., we will pay for loss or damage to that property only if:
- (1) Such loss or damage is a direct result of the abrupt collapse of a building insured under this Coverage Form; and
 - (2) The property is Covered Property under this Coverage Form.
5. If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:
- a. The collapse of personal property was caused by a cause of loss listed in 2.a. through 2.d.
 - b. The personal property which collapses is inside a building; and
 - c. The property which collapses is not of a kind listed in 4., regardless of whether that kind of property is considered to be personal property or real property.
- The coverage stated in this Paragraph 5. does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.
6. This Additional Coverage - Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
7. This Additional Coverage - Collapse will not increase the Limits of Insurance provided in this Coverage Part.
8. The term Covered Cause of Loss includes the Additional Coverage - Collapse as described and limited in D.1. through D.7.

E. Additional Coverage - Limited Coverage For "Fungus", Wet Rot, Dry Rot And Bacteria

- 1. The coverage described in E.2. and E.6. only applies when the "fungus", wet or dry rot or bacteria is the result of one or more of the following causes that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.
 - a. A "specified cause of loss" other than fire or lightning; or
 - b. Flood, if the Flood Coverage Endorsement applies to the affected premises.
- 2. We will pay for loss or damage by "fungus", wet or dry rot or bacteria. As used in this Limited Coverage, the term loss or damage means:
 - a. Direct physical loss or damage to Covered Property caused by "fungus", wet or dry rot or bacteria, including the cost of removal of the "fungus", wet or dry rot or bacteria;
 - b. The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungus", wet or dry rot or bacteria; and
 - c. The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungus", wet or dry rot or bacteria are present.
- 3. The coverage described under E.2. of this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) and Flood which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungus", wet or dry rot or bacteria, we will not pay more than a total of \$15,000 even if the "fungus", wet or dry rot or bacteria continues to be present or active, or recurs, in a later policy period.
- 4. The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungus", wet or dry rot or bacteria, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungus", wet or dry rot or bacteria, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungus", wet or dry rot or bacteria causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

5. The terms of this Limited Coverage do not increase or reduce the coverage provided under Paragraph **F.2.** (Water Damage, Other Liquids, Powder Or Molten Material Damage) of this Causes Of Loss Form or under the Additional Coverage - Collapse.

6. The following, **6.a.** or **6.b.**, applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the "suspension" of "operations" satisfies all terms and conditions of the applicable Business Income and/or Extra Expense Coverage Form.

a. If the loss which resulted in "fungus", wet or dry rot or bacteria does not in itself necessitate a "suspension" of "operations", but such "suspension" is necessary due to loss or damage to property caused by "fungus", wet or dry rot or bacteria, then our payment under Business Income and/or Extra Expense is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.

b. If a covered "suspension" of "operations" was caused by loss or damage other than "fungus", wet or dry rot or bacteria but remediation of "fungus", wet or dry rot or bacteria prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

F. Additional Coverage Extensions

1. Property In Transit

This Extension applies only to your personal property to which this form applies.

a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.

b. Loss or damage must be caused by or result from one of the following causes of loss:

(1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.

(2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the road bed.

(3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.

c. The most we will pay for loss or damage under this Extension is \$5,000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

2. Water Damage, Other Liquids, Powder Or Molten Material Damage

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes. This Coverage Extension does not increase the Limit of Insurance.

3. Glass

a. We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.

b. We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

This Coverage Extension, **F.3.**, does not increase the Limit of Insurance.

G. Definitions

1. "Fungus" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

2. "Specified causes of loss" means the following: fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire-extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

- a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:
 - (1) The cost of filling sinkholes; or
 - (2) Sinking or collapse of land into man-made underground cavities.
- b. Falling objects does not include loss or damage to:
 - (1) Personal property in the open; or
 - (2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
- c. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts), that is located on the described premises and contains water or steam.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WATER EXCLUSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART
STANDARD PROPERTY POLICY

A. The exclusion in Paragraph **B.** replaces the **Water** Exclusion in this Coverage Part or Policy.

B. Water

1. Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
2. Mudslide or mudflow;
3. Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
4. Water under the ground surface pressing on, or flowing or seeping through:
 - a. Foundations, walls, floors or paved surfaces;
 - b. Basements, whether paved or not; or
 - c. Doors, windows or other openings; or
5. Waterborne material carried or otherwise moved by any of the water referred to in Paragraph 1., 3. or 4., or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs 1. through 5., is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs 1. through 5., results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage (if sprinkler leakage is a Covered Cause of Loss).

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and
 - c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.
4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES – FRAUD

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART – FARM PROPERTY – OTHER FARM PROVISIONS FORM – ADDITIONAL
COVERAGES, CONDITIONS, DEFINITIONS
FARM COVERAGE PART – LIVESTOCK COVERAGE FORM
FARM COVERAGE PART – MOBILE AGRICULTURAL MACHINERY AND EQUIPMENT COVERAGE FORM

The CONCEALMENT, MISREPRESENTATION OR FRAUD Condition is replaced by the following:

FRAUD

We do not provide coverage for any insured ("insured") who has made fraudulent statements or engaged in fraudulent conduct in connection with any loss ("loss") or damage for which coverage is sought under this policy.

However, with respect to insurance provided under the COMMERCIAL AUTOMOBILE COVERAGE PART, we will provide coverage to such "insured" for damages sustained by any person who has not made fraudulent statements or engaged in fraudulent conduct if such damages are otherwise covered under the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES - CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYERS-RELATED PRACTICES LIABILITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY - NEW YORK

- A.** For policies with fixed terms in excess of one year, or policies with no stated expiration date, except as provided in Paragraph **B.**, the following applies:

The premium shown in the Declarations was computed based on rates and rules in effect at the time the policy was issued. On each renewal or continuation of this policy, we will compute the premium in accordance with our rates and rules then in effect.

- B.** For policies with fixed terms in excess of one year, where premium is computed and paid annually, the following applies:

1. The premium shown in the Declarations was computed based on rates and rules in effect at the time the policy was issued. Such rates and rules will be used to calculate the premium at each anniversary, for the entire term of the policy, unless the specific reasons described in Paragraph 2. or 3. apply.
2. The premium will be computed based on the rates and rules in effect on the anniversary date of the policy only when, subsequent to the inception of the current policy period, one or more of the following occurs:

- a. After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and that occurred subsequent to inception of the current policy period;
 - b. A material physical change in the property insured, occurring after issuance or last anniversary renewal date of the policy, causes the property to become uninsurable in accordance with underwriting standards in effect at the time the policy was issued or last renewed; or
 - c. A material change in the nature or extent of the risk, occurring after issuance or last anniversary renewal date of the policy, which causes the risk of "loss" to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed.
3. If, subsequent to the inception of the current policy period, the Limit of Insurance is increased, or Additional Coverages or Causes of Loss are insured, the rate and rules in effect at the time of the change will be applied to calculate the premium and will continue to apply to the change at subsequent anniversary dates.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES -
CANCELLATION AND NONRENEWAL**

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Paragraphs 1., 2., 3. and 5. of the Cancellation Common Policy Condition are replaced by the following:

1. The first Named Insured shown in the Declarations may cancel this entire policy by mailing or delivering to us advance written notice of cancellation.

2. Cancellation Of Policies In Effect

a. 60 Days Or Less

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

- (1) 30 days before the effective date of cancellation if we cancel for any reason not included in Paragraph A.2.a.(2) below.
- (2) 15 days before the effective date of cancellation if we cancel for any of the following reasons:
 - (a) Nonpayment of premium, provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due;
 - (b) Conviction of a crime arising out of acts increasing the hazard insured against;
 - (c) Discovery of fraud or material misrepresentation in the obtaining of the policy or in the presentation of a claim;
 - (d) After issuance of the policy or after the last renewal date, discovery of an act or omission, or a violation of any policy condition, that substantially and materially increases the hazard insured against, and that occurred subsequent to inception of the current policy period;
 - (e) Material physical change in the property insured, occurring after issuance or last annual renewal anniversary date of the

policy, that results in the property becoming uninsurable in accordance with our objective, uniformly applied underwriting standards in effect at the time the policy was issued or last renewed; or material change in the nature or extent of the risk, occurring after issuance or last annual renewal anniversary date of the policy, that causes the risk of loss to be substantially and materially increased beyond that contemplated at the time the policy was issued or last renewed;

- (f) Required pursuant to a determination by the Superintendent that continuation of our present premium volume would jeopardize our solvency or be hazardous to the interest of our policyholders, our creditors or the public;
- (g) A determination by the Superintendent that the continuation of the policy would violate, or would place us in violation of, any provision of the Insurance Code; or
- (h) Where we have reason to believe, in good faith and with sufficient cause, that there is a probable risk of danger that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. If we cancel for this reason, you may make a written request to the Insurance Department, within 10 days of receipt of this notice, to review our cancellation decision. Also, we will simultaneously send a copy of this cancellation notice to the Insurance Department.

b. For More Than 60 Days

If this policy has been in effect for more than 60 days, or if this policy is a renewal or continuation of a policy we issued, we may cancel only for any of the reasons listed in Paragraph **A.2.a.(2)** above, provided:

- (1) We mail the first Named Insured written notice at least 15 days before the effective date of cancellation; and
- (2) If we cancel for nonpayment of premium, our notice of cancellation informs the first Named Insured of the amount due.

3. We will mail or deliver our notice, including the reason for cancellation, to the first Named Insured at the address shown in the policy and to the authorized agent or broker.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata.

However, when the premium is advanced under a premium finance agreement, the cancellation refund will be pro rata. Under such financed policies, we will be entitled to retain a minimum earned premium of 10% of the total policy premium or \$60, whichever is greater. The cancellation will be effective even if we have not made or offered a refund.

B. The following is added to the Cancellation Common Policy Condition:

7. If one of the reasons for cancellation in Paragraph **A.2.a.(2)** or **D.2.b.(2)** exists, we may cancel this entire policy, even if the reason for cancellation pertains only to a new coverage or endorsement initially effective subsequent to the original issuance of this policy.

C. The following conditions are added:

1. Nonrenewal

If we decide not to renew this policy we will send notice as provided in Paragraph **C.3.** below.

2. Conditional Renewal

If we conditionally renew this policy subject to:

- a. A change of limits;
- b. A change in type of coverage;
- c. A reduction of coverage;
- d. An increased deductible;

e. An addition of exclusion; or

f. Increased premiums in excess of 10%, exclusive of any premium increase due to and commensurate with insured value added or increased exposure units; or as a result of experience rating, loss rating, retrospective rating or audit;

we will send notice as provided in Paragraph **C.3.** below.

3. Notices Of Nonrenewal And Conditional Renewal

a. If we decide not to renew this policy or to conditionally renew this policy as provided in Paragraphs **C.1.** and **C.2.** above, we will mail or deliver written notice to the first Named Insured shown in the Declarations at least 60 but not more than 120 days before:

- (1) The expiration date; or
- (2) The anniversary date if this is a continuous policy.

b. Notice will be mailed or delivered to the first Named Insured at the address shown in the policy and to the authorized agent or broker. If notice is mailed, proof of mailing will be sufficient proof of notice.

c. Notice will include the specific reason(s) for nonrenewal or conditional renewal, including the amount of any premium increase for conditional renewal and description of any other changes.

d. If we violate any of the provisions of Paragraph **C.3.a., b.** or **c.** above by sending the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice:

(1) And if notice is provided prior to the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy at the lower of the current rates or the prior period's rates until 60 days after such notice is mailed or delivered, unless the first Named Insured, during this 60-day period, has replaced the coverage or elects to cancel;

(2) And if the notice is provided on or after the expiration date of this policy, coverage will remain in effect at the same terms and conditions of this policy for another policy period, at the lower of the current rates or the prior period's rates, unless the first Named Insured, during this additional policy period, has replaced the coverage or elects to cancel.

- e. If you elect to renew on the basis of a late conditional renewal notice, the terms, conditions and rates set forth in such notice shall apply:
- (1) Upon expiration of the 60-day period, unless Subparagraph (2) below applies; or
 - (2) Notwithstanding the provisions in Paragraphs d.(1) and d.(2), as of the renewal date of the policy if the conditional renewal notice was sent at least 30 days prior to the expiration or anniversary date of the policy.
- f. We will not send you notice of nonrenewal or conditional renewal if you, your authorized agent or broker or another insurer of yours mails or delivers notice that the policy has been replaced or is no longer desired.
- D. The following provisions apply when the Commercial Property Coverage Part, the Farm Coverage Part or the Capital Assets Program (Output Policy) Coverage Part is made a part of this policy:**
1. Items **D.2.** and **D.3.** apply if this policy meets the following conditions:
 - a. The policy is issued or issued for delivery in New York State covering property located in this state; and
 - b. The policy insures:
 - (1) For loss of or damage to structures, other than hotels or motels, used predominantly for residential purposes and consisting of no more than four dwelling units; or
 - (2) For loss of or damage to personal property other than farm personal property or business property; or
 - (3) Against damages arising from liability for loss of, damage to or injury to persons or property, except liability arising from business or farming; and
 - c. The portion of the annual premium attributable to the property and contingencies described in 1.b. exceeds the portion applicable to other property and contingencies.
 2. Paragraph 2. of the **Cancellation** Common Policy Condition is replaced by the following:
 - 2. Procedure And Reasons For Cancellation**
 - a. We may cancel this entire policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - (1) 15 days before the effective date of cancellation if we cancel for nonpayment of premium, provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
 - b. But if this policy:
 - (1) Has been in effect for more than 60 days; or
 - (2) Is a renewal of a policy we issued; we may cancel this policy only for one or more of the following reasons:
 - (1) Nonpayment of premium, provided however, that a notice of cancellation on this ground shall inform the first Named Insured of the amount due;
 - (2) Conviction of a crime arising out of acts increasing the risk of loss;
 - (3) Discovery of fraud or material misrepresentation in obtaining the policy or in making a claim;
 - (4) Discovery of willful or reckless acts or omissions increasing the risk of loss;
 - (5) Physical changes in the covered property that make that property uninsurable in accordance with our objective and uniformly applied underwriting standards in effect when we:
 - (a) Issued the policy; or
 - (b) Last voluntarily renewed the policy;
 - (6) The Superintendent of Insurance's determination that continuing the policy would violate Chapter 28 of the Insurance Law; or
 - (7) Required pursuant to a determination by the Superintendent of Insurance that the continuation of our present premium volume would be hazardous to the interests of our policyholders, our creditors or the public.
 3. The following are added:
 - a. Conditional Continuation**

Instead of cancelling this policy, we may continue it on the condition that:

 - (1) The policy limits be changed; or
 - (2) Any coverage not required by law be eliminated.

If this policy is conditionally continued, we will mail or deliver to the first Named Insured written notice at least 20 days before the effective date of the change or elimination. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

b. Nonrenewal

If, as allowed by the laws of New York State, we:

- (1) Do not renew this policy; or
- (2) Condition policy renewal upon:
 - (a) Change of limits; or
 - (b) Elimination of coverage;

we will mail or deliver written notice of non-renewal or conditional renewal:

- (a) At least 45 days; but
- (b) Not more than 60 days;

before the expiration date of the policy. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. If notice is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

E. The following is added to the Farm Property - Other Farm Provisions Form - Additional Coverages, Conditions, Definitions, the Commercial Property Coverage Part and the Capital Assets Program (Output Policy) Coverage Part:

When the property is subject to the Anti-arson Application in accordance with New York Insurance Department Regulation No. 96, the following provisions are added:

If you fail to return the completed, signed and affirmed anti-arson application to us:

1. Or our broker or agent within 45 days of the effective date of a new policy, we will cancel the entire policy by giving 20 days' written notice to you and to the mortgageholder shown in the Declarations.
2. Before the expiration date of any policy, we will cancel the policy by giving written notice to you and to the mortgageholder shown in the Declarations at least 15 days before the effective date of cancellation.

The cancellation provisions set forth in **E.1.** and **E.2.** above supersede any contrary provisions in this policy including this endorsement.

If the notice in **E.1.** or **E.2.** above is mailed, proof of mailing will be sufficient proof of notice. Delivery of the notice will be the same as mailing.

F. The following applies to the Commercial Property Coverage Part, the Farm Coverage Part and the Capital Assets Program (Output Policy) Coverage Part:

Paragraphs **f.** and **g.** of the **Mortgageholders** Condition are replaced by the following:

f. Cancellation

- (1) If we cancel this policy, we will give written notice to the mortgageholder at least:
 - (a) 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
 - (b) 30 days before the effective date of cancellation if we cancel for any other reason.
- (2) If you cancel this policy, we will give written notice to the mortgageholder. With respect to the mortgageholder's interest only, cancellation will become effective on the later of:
 - (a) The effective date of cancellation of the insured's coverage; or
 - (b) 10 days after we give notice to the mortgageholder.

g. Nonrenewal

- (1) If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.
- (2) If you elect not to renew this policy, we will give written notice to the mortgageholder. With respect to the mortgageholder's interest only, nonrenewal will become effective on the later of:
 - (a) The expiration date of the policy; or
 - (b) 10 days after we give notice to the mortgageholder.

G. The following provisions apply when the following are made a part of this policy:

Commercial General Liability Coverage Part
Employment-Related Practices Liability Coverage Part
Farm Liability Coverage Form
Liquor Liability Coverage Part
Products/Completed Operations Liability Coverage Part

1. The aggregate limits of this policy as shown in the Declarations will be increased in proportion to any policy extension provided in accordance with Paragraph **C.3.d.** above.
2. The last sentence of Limits Of Insurance does not apply when the policy period is extended because we sent the first Named Insured an incomplete or late conditional renewal notice or a late nonrenewal notice.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTAIN COMPUTER-RELATED LOSSES

This endorsement modifies insurance provided under the following:

COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
STANDARD PROPERTY POLICY

A. We will not pay for loss ("loss") or damage caused directly or indirectly by the following. Such loss ("loss") or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss ("loss") or damage.

1. The failure, malfunction or inadequacy of:

a. Any of the following, whether belonging to any insured or to others:

- (1) Computer hardware, including micro-processors;
- (2) Computer application software;
- (3) Computer operating systems and related software;
- (4) Computer networks;
- (5) Microprocessors (computer chips) not part of any computer system; or
- (6) Any other computerized or electronic equipment or components; or

b. Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph **A.1.a.** of this endorsement;

due to the inability to correctly recognize, process, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

2. Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph **A.1.** of this endorsement.

B. If an excluded Cause of Loss as described in Paragraph **A.** of this endorsement results:

1. In a Covered Cause of Loss under the Crime and Fidelity Coverage Part, the Commercial Inland Marine Coverage Part or the Standard Property Policy; or

2. Under the Commercial Property Coverage Part:

a. In a "Specified Cause of Loss", or in elevator collision resulting from mechanical breakdown, under the Causes of Loss - Special Form; or

b. In a Covered Cause of Loss under the Causes Of Loss - Basic Form or the Causes Of Loss - Broad Form;

we will pay only for the loss ("loss") or damage caused by such "Specified Cause of Loss", elevator collision, or Covered Cause of Loss.

C. We will not pay for repair, replacement or modification of any items in Paragraphs **A.1.a.** and **A.1.b.** of this endorsement to correct any deficiencies or change any features.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
STANDARD PROPERTY POLICY

A. Cap On Certified Terrorism Losses

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

B. Application Of Exclusions

The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for any loss which would otherwise be excluded under this Coverage Part or Policy, such as losses excluded by the Nuclear Hazard Exclusion or the War And Military Action Exclusion.

VALUE PLUS
SUPPLEMENTARY PROPERTY COVERAGE ENDORSEMENT
SUMMARY AND INDEX OF COVERAGES AND LIMITS

The following is a summary and index of the various coverages and Causes of Loss provided by this Endorsement. No coverage is being provided by this summary and index. The provisions of Sections **A** and **B** of this Endorsement determine the scope of the coverages and Causes of Loss provided by this Endorsement.

PAGE	COVERAGE	LIMIT
5	Accounts Receivable - on premises	\$ 25,000
	- off premises	\$ 10,000
11	Back-Up of Sewers & Drains	\$ 25,000
10	Building Damage Caused By Theft or Vehicle	Included
12	Building Glass Special \$250 Deductible	Included
11	Claim Data Expense	\$ 5,000
7	Consequential Loss to "Stock"	Included
11	Credit Card Slips	\$ 5,000
11	Debris Removal	\$ 25,000
2	Definition of Premises	1,000 feet
5	EDP - Equipment	\$ 40,000
	Media	\$ 10,000
	Extra Expense	\$ 10,000
6	Employee Dishonesty	\$ 25,000
4	Extra Expense	\$ 25,000
9	Fine Arts	\$ 25,000
11	Fire Department Service Charge	\$ 10,000
10	Fire Protection Equipment Recharge	\$ 15,000
10	Forgery or Alteration	\$ 10,000
11	Lock and Key Replacement - premises	\$ 5,000
6	Money and Securities - on premises	\$ 25,000
	- off premises	\$ 10,000
2	Newly Acquired Property - Buildings	\$ 1,000,000
	- Business Personal Property	\$ 500,000
4	Non-Owned Detached Trailers	\$ 5,000
7	Ordinance or Law - Undamaged portion	\$ Included
	Demolition	\$ 100,000
	Increased Cost of Construction	\$ 100,000
4	Outdoor Property	\$ 20,000
4	Outdoor Signs	\$ 10,000
3	Personal Effects & Property of Others - per person	\$ 1,000
	- per occurrence	\$ 10,000
11	Pollutant Clean Up	\$ 25,000
3	Property at Unnamed Location	\$ 10,000
12	Property In Transit	\$ 25,000
3	Property Off Premises & At Exhibition	\$ 25,000
10	Salesperson's Samples	\$ 1,000
12	Utility Services	\$ 25,000
3	Valuable Papers - on premises	\$ 25,000
	- off premises	\$ 10,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance under the following:

**BUILDING AND PERSONAL PROPERTY COVERAGE FORM
CAUSES OF LOSS - SPECIAL FORM**

- A. Section A., ITEM 5. – **Coverage Extensions** as found in the **Building and Personal Property Coverage Form** does not apply and is replaced by the following:

5. Coverage Extensions

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within **1,000** feet of the described premises. Unless otherwise stated in this endorsement, the following extensions of coverage are subject to the deductible shown in the Commercial Property Coverage Declarations. Unless stated otherwise, each of these extensions is additional insurance and coverage is considered primary.

SECTION F. – Additional Conditions, ITEM 1. – Coinsurance of the **Building and Personal Property Coverage Form** does not apply to these extensions.

a. Newly Acquired Or Constructed Property

(1) Buildings

If this policy covers building, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at locations, other than the described premises, intended for:
 - (i) Similar use as the building described in the Declarations; or
 - (ii) Use as a warehouse.

The most we will pay for loss or damage under this extension is \$1,000,000 for each building.

(2) Your Business Personal Property

- (a) If this policy covers Your Business Personal Property, you may extend that insurance to apply to:

- (i) Business personal property, including such property that you newly acquire, at any location you acquire other than at fairs, trade shows or exhibitions;
- (ii) Business personal property, including such property that you newly acquire located at your newly constructed or acquired buildings at the location described in the Declarations; or
- (iii) Business Personal Property that you newly acquire, located at the described premises.

The most we will pay for loss or damage under this extension is \$500,000 at each building.

- (b) This extension does not apply to:

- (i) Personal property of others that is temporarily in your possession, in the course of installing or performing work on such property; or
- (ii) Personal property of others that is temporarily in your possession, in the course of your manufacturing or wholesaling activities.

(3) Period of Coverage

With respect to insurance on or at each newly acquired or constructed property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 180 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

b. Personal Effects And Property of Others

You may extend the insurance as found in the **Building and Personal Property Coverage Form** that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or members, your managers or your employees.
- (2) Personal property of others, in your care, custody or control, including customer's property.

The most we will pay for loss or damage under this extension is \$10,000 at each described premises but not more than \$1,000 for personal effects or property of others owned by any one individual.

Our payment for loss or damage to personal effects or property of others will only be for the account of the owner of the property.

Each loss for personal effects or property of others owned by any one individual is subject to a \$100 Deductible.

c. Valuable Papers And Records (Other Than Electronic Data)

- (1) **Section A., ITEM 5. - Coverage Extensions, Paragraph c. - Valuable Papers And Records(Other Than Electronic Data), Subparagraph (1)** as found in the **Building and Personal Property Coverage Form** is deleted and replaced by:

You may extend the insurance that applies to Your Business Personal Property to apply to the cost to research, replace or restore the lost information on lost or damaged valuable papers and records, for which duplicates do not exist.

- (2) **Section A., ITEM 5. - Coverage Extensions, Paragraph c. - Valuable Papers And Records (Other Than Electronic Data), Subparagraph (4)** as found in the **Building and Personal Property Coverage Form** is replaced by the following:

Under this extension, the most we will pay to research, replace or restore the lost information is \$25,000 at each described premises and \$10,000 for loss or damage to these records while they are away from the described premises, unless a higher limit is shown in the Declarations.

d. Property beyond 1,000 feet of the described premises

(1) Property Off-Premises

- (a) You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to your Covered Property while it is away from the described premises, if it is:

- (i) Temporarily at a location you do not own, lease or operate; or
- (ii) At any fair, trade show or exhibition.

- (b) **The most we will pay under this extension is \$25,000.**

(2) Property at an Unnamed Location

- (a) You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to your Covered Property while it is away from the described premises, if it is:

- (i) In storage at a location you lease, provided the lease was executed after the beginning of the current policy term; or
- (ii) Temporarily at any other location that you own, lease or operate (except at any fair, trade show or exhibition).

- (b) **The most we will pay under this extension is \$10,000.**

(3) For extensions (1) Property Off-Premises and (2) Property at an Unnamed Location

- (a) Covered Property includes property you have sold where your responsibility continues until the property is accepted by the customer.

- (b) These extensions do not apply to property:

- (i) In or on a vehicle; or
- (ii) In the care, custody or control of your salespersons, unless the property is in such care, custody or control at a fair, trade show or exhibition.

e. Outdoor Property

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to a loss to your outdoor fences, radio and television antennas, satellite dishes, trees, shrubs and plants (other than "stock" of trees, shrubs or plants), including debris removal expense, caused by or resulting from any of the covered Causes of Loss.

The most we will pay for loss or damage under this extension is \$20,000. This limit applies to any one occurrence, regardless of the types or number of items lost or damaged in that occurrence.

f. Non-Owned Detached Trailers

(1) You may extend the insurance that applies to Your Business Personal Property as found in the **Building and Personal Property Coverage Form** to apply to loss or damage to trailers that you do not own, provided that:

- (a) The trailer is used in your business;
- (b) The trailer is in your care, custody or control at the premises described in the Declarations; and
- (c) You have a contractual responsibility to pay for loss or damage to the trailer.

(2) We will not pay for any loss or damage that occurs:

- (a) While the trailer is attached to any motor vehicle or motorized conveyance, whether or not the motor vehicle or motorized conveyance is in motion; or
- (b) During hitching or unhitching operations, or when a trailer becomes accidentally unhitched from a motor vehicle or motorized conveyance.

(3) **The most we will pay for loss or damage under this extension is \$5,000, unless a higher limit is shown in the Declarations.**

(4) This insurance is excess over the amount due (whether you can collect on it or not) from any other insurance covering such property.

g. Outdoor Signs

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to your outdoor signs, whether or not attached to buildings that are within 1,000 feet of the described premises and are damaged by a Covered Cause of Loss.

The most we will pay for loss or damage under this extension is \$10,000, including debris removal expense.

h. Extra Expense

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to the actual and necessary extra expense you incur in order to continue, as nearly as practicable, the normal operations of your business following a direct physical loss or damage to Covered Property at a premises described in the Declarations. The loss or damage must be caused by or resulting from a Covered Cause of Loss.

(1) **Extra Expense** means necessary expenses you incur during the period of restoration that you would not have incurred if there had been no direct physical loss or damage to property:

- (a) To avoid the suspension of business and to continue your normal business activities occurring at the described premises;
- (b) To minimize the suspension of business, if you cannot continue your normal business activities;
- (c) To repair or replace any property to the extent that it reduces the amount of loss that otherwise would have been payable under this policy.

(2) **Extra Expense** does not include:

- (a) Any extra expense caused by or resulting from any suspension, lapse or cancellation of any license, lease or contract beyond the period of restoration; or
- (b) Loss of income.

- (3) **Period of Restoration** means that period of time it should take to repair, rebuild or replace the described property, with reasonable speed and similar quality or the date business is resumed at a new permanent location. It does not include any increased period caused by the enforcement of any building ordinance or law. Expiration of the policy does not limit the period of restoration.
- (4) **The most we will pay for loss under this extension is \$25,000 at each described premises.**
- i. **Electronic Data Processing Equipment, Data and Media Coverage**
- SECTION A., ITEM 4. - Additional Coverages, Paragraph f. - Electronic Data of the Building and Personal Property Coverage Form** is deleted and replaced by:
- You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to loss of or damage to electronic data processing equipment, data and media at the described premises caused by or resulting from a Covered Cause of Loss. This extension also includes coverage for extra expense caused by the Covered Cause of Loss to this electronic data processing equipment. The Covered Cause of Loss includes damage caused by a virus.
- The Causes of Loss - Special Form, SECTION B. - EXCLUSIONS, ITEM 1., Paragraph e. - Utility Services, ITEM 2., Paragraph a. and ITEM 2., Paragraph d., Subparagraph (6) do not apply to this extension.**
- (1) **The most we will pay for loss or damage in any one occurrence under this extension is the following:**
- (a) **Electronic Data Processing Equipment - \$40,000**
 - (b) **Data and Media combined - \$10,000**
 - (c) **Extra Expense - \$10,000**
- (2) As used in this extension:
- (a) **Electronic Data Processing Equipment** means your electronic data processing equipment, including component parts of the equipment and similar property of others in your care, custody or control.
 - (b) **Data** means information, which has been converted to a form usable in your data processing operations.
 - (c) **Media** means punch cards, tapes, disks, drums, cells or other magnetic recording or storage devices upon which data is stored.
 - (d) **Extra Expense** means the necessary additional expenses you incur following a covered loss to electronic data processing equipment or media, in order to continue the normal data processing operation as if the loss or damage had not happened. Extra Expense does not mean any loss or reduction of profits or earnings or expenses that you incur to buy or rent equipment except to the extent that it reduces a loss.
 - (e) **Virus** means a harmful code or similar instruction introduced into or enacted on a computer system (including electronic data) or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation.
- (3) In the event of loss or damage under this extension, the value of:
- (a) Electronic data processing equipment will be determined in accordance with **SECTION E. - Loss Conditions, ITEM 7. - Valuation** as found in the **Building and Personal Property Coverage Form**.
 - (b) Data and media will be the cost of replacing the media and replacing or reproducing the data. If the data is not replaced or reproduced, the value will be the cost of the blank media.
 - (c) Payment for loss of or damage to property of others will only be for the account of the owner of the property.
- j. **Accounts Receivable**
- (1) You may extend the insurance provided by the **Building and Personal Property Coverage Form** to cover loss resulting from damage to your accounts receivable records resulting from a Covered Cause of Loss, at the described premises or while they are away from the described premises. Coverage includes:
- (a) All amounts due from your customers that you are unable to collect;
 - (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
 - (c) Collection expenses in excess of your normal collection expenses that are made necessary by the loss or damage; and

(d) Other reasonable expenses that you incur to reestablish your records of a accounts receivable.

- (2) **The most we will pay for loss under this extension is \$25,000 for loss or damage to these accounts receivable records on premises and \$10,000 for loss or damage to these records while they are away from the described premises.**

If, however, you give us written notice within 10 days of removal of your records of accounts receivable because of imminent danger of loss, we will pay up to the full Limit of Insurance for this extension for loss or damage while they are at a safe place away from your described premises or while being taken to and returned from that place. No Deductible is applicable to this extension.

- (3) **The Causes of Loss - Special Form, SECTION B. - Exclusions, ITEM 1., Paragraph e. - Utility Services, ITEM 2., Paragraph a. and ITEM 2., Paragraph d., Subparagraph (6) do not apply to this extension.**

k. Money and Securities - Theft

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to loss of your "money" and "securities" or "money" and "securities" held by you, caused by theft, disappearance or destruction. This extension applies only while the "money" and "securities" are inside a building or structure at the described premises or while outside the premises in the custody or control of a messenger.

- (1) This extension does not apply to:

- (a) Theft by you, any of your partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the "money" for any purpose:
 - (i) Whether acting alone or in collusion with others; or
 - (ii) Whether or not occurring during the hours of employment.
- (b) Voluntary parting with "money" by you or anyone else to whom you have entrusted the "money" if induced to do so by any fraudulent scheme, trick, device or false pretense.
- (c) Loss resulting from accounting or arithmetical error or omission.

- (2) As used in this extension:

- (a) **Premises** means the interior of that portion of any building you occupy in conducting your business.
- (b) **Messenger** means you, any of your partners or any employee while having care and custody of the property outside the premises.

- (3) **The most we will pay for loss of "money" and/or "securities" in any one "occurrence" under this extension is \$25,000 for loss occurring inside the premises or \$10,000 for loss occurring outside the premises, while in the care and custody of a messenger.**
- (4) We will not pay for loss of "money" and/or "securities" in any one "occurrence" under this extension until the amount of loss exceeds \$250. We will then pay the amount of loss in excess of \$250, up to the Limit of Insurance for this extension. No other Deductible applies to this extension.
- (5) In the event of loss under this extension, the value of "money" will be its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America:
- (a) At face value in the "money" issued by that country; or
 - (b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.

I. Employee Dishonesty

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to loss of or loss from damage to "money", "securities" and property other than "money" and "securities" caused by Employee Dishonesty.

The most we will pay for loss or damage under this extension is \$25,000 in any one occurrence.

- (1) We will not pay for loss as specified below:

- (a) Loss committed by an employee of yours or predecessor in interest of yours, for whom similar prior insurance has been canceled and not reinstated since the last such cancellation; or

- (b) Loss, or that part of any loss, where the proof of its existence or amount is dependent upon:
 - (i) An inventory computation; or
 - (ii) A profit and loss computation.
- (c) Loss caused by any employee that you (or any of your partners, officers or directors not in collusion with the employee) discover had committed any dishonest act whether before or after becoming employed by you.

(2) As used in this extension, these terms mean the following:

- (a) **Employee Dishonesty** means only dishonest acts committed by an employee whether identified or not, acting alone or in collusion with other persons, except you or a partner, with the manifest intent to:

- (i) Cause you to sustain loss; and
- (ii) Obtain financial benefit (other than employee benefits earned in the normal course of employment including: salaries, commissions, fees, bonuses, promotions, awards, profit sharing or pensions) for the employee or any person or organization intended by the employee to receive that benefit.

- (b) **Employee** means any natural person:

- (i) While in your service; and
- (ii) Whom you compensate directly by salary, wages or commissions; and
- (iii) Whom you have the right to direct and control while performing services for you or employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding, however, any such person having care and custody of property outside the premises.

But **employee** does **not** mean any:

- (i) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character ; or
- (ii) Director or trustee except while performing acts coming within the scope of the usual duties of an employee.

- (c) **Occurrence** means all loss caused by or involving one or more employees, whether the result of a single act or series of acts.

m. Consequential Loss to "Stock"

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to provide for loss due to any reduction in the value of the remaining undamaged portions of your covered "stock", provided the loss or damaged portion of the "stock" resulted from a Covered Cause of Loss. Payment for any reduced value of "stock" is included within the applicable Business Personal Property Limit of Insurance.

n. Ordinance or Law Coverage

You may extend the insurance as found in the **Building and Personal Property Coverage Form** that applies to a covered building as follows:

(1) Coverage A - Coverage for Loss to the Undamaged Portion of the Building

- (a) With respect to the building that has sustained covered direct physical damage, we will pay under Coverage A for the loss in value of the undamaged portion of the building as a consequence of enforcement of an ordinance or law that requires demolition of undamaged parts of the same building.
- (b) The Limit of Insurance that applies to Coverage A is included in the Limit of Insurance for that covered building property as shown in the Declarations. This is not additional insurance.

The most we will pay for all loss to the covered building is:

- (i) The actual cash value of the building at the time of loss, if the covered building was written on an actual cash value basis; or
- (ii) The cost to repair or replace the damaged or destroyed property with property of comparable material and quality (of the same height, floor area and used for the same purpose) if written on a replacement cost basis, but not more than the Building Limit shown on the Declarations.

(2) Coverage B - Demolition Cost Coverage

- (a) With respect to the building that has sustained covered direct physical damage, we will pay the cost to demolish and clear the site of undamaged parts of the same building, as a consequence of enforcement of an ordinance or law that requires demolition of such undamaged property.
- (b) **The most we will pay under Coverage B is the lesser of:**
- (i) The amount you actually spend to demolish and clear the site of the described premises; or
 - (ii) \$100,000.

(3) Coverage C - Increased Cost of Construction Coverage

- (a) With respect to the building that has sustained covered direct physical damage, we will pay the increased cost to repair, rebuild or construct the property when the increased cost is a consequence of enforcement of the minimum requirements of the ordinance or law. If the property is repaired or rebuilt, it must be intended for similar occupancy as the current property, unless otherwise required by zoning or land use ordinance or law.
- (b) Under Coverage C, we will not pay for the increased cost of construction:
- (i) Unless the covered building is written on a Replacement Cost basis; and
 - (ii) Until the property is actually repaired or replaced, at the same premises or elsewhere; and
 - (iii) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage, not to exceed 2 years. We may extend this period in writing during the 2 years.
- (c) **The most we will pay under Coverage C is the lesser of:**
- (i) The amount you actually spend to repair, rebuild or construct the property but not for more than property of the same height, floor area and style on the same premises; or
 - (ii) \$100,000.

(4) Application of Coverages

The coverages provided by this extension apply only if both (4)(a) and (4)(b) are satisfied and are then subject to the qualifications set forth in (4)(c).

- (a) The ordinance or law:
- (i) Regulates the demolition, construction or repair of buildings or establishes zoning or land use requirements at the described premises; and
 - (ii) Is in force at the time of loss.

But, coverage under this extension applies only in response to the minimum requirements of the ordinance or law. Losses and costs incurred in complying with recommended actions or standards that exceed actual requirements are not covered under this extension.

- (b) (i) The building sustains direct physical damage that is covered under this policy and such damage results in enforcement of the ordinance or law; or
- (ii) The building sustains both direct physical damage that is covered under this policy and direct physical damage that is not covered under this policy, and the building damage in its entirety results in enforcement of the ordinance or law.
- (iii) But, if the building sustains direct physical damage that is not covered under this policy, and such damage is the subject of the ordinance or law, then there is no coverage under this extension even if the building has also sustained covered direct physical damage.
- (c) In the situation described in (4)(b)(ii) above, we will not pay the full amount of loss otherwise payable under the terms of Coverages A, B and/or C of this extension. Instead, we will pay a proportion of such loss, meaning the proportion that the covered direct physical damage bears to the total direct physical damage. (Section (5) of this extension provides an example of this procedure.)

However, if the covered direct physical damage alone would have resulted in enforcement of the ordinance or law, then we will pay the full amount of loss otherwise payable under the terms of Coverages A, B and/or C of this extension.

- (5) Example of proportionate loss payment for ordinance or law coverage losses (procedure as set forth in Section (4)(c) of this extension).

Assume:

- * Wind is a Covered Cause of Loss; Flood is an excluded Cause of Loss
- * The building has a value of \$100,000
- * Total direct physical damage to building: \$50,000
- * The ordinance or law in this jurisdiction is enforced when building damage equals or exceeds 50% of the building's value
- * Portion of direct physical damage that is covered (caused by wind): \$15,000
- * Portion of direct physical damage that is not covered (caused by flood): \$35,000
- * Loss under ordinance or law Coverage C of this extension: \$30,000

Step 1:

Determine the proportion that the covered direct physical damage bears to the total direct physical damage.

$$\$15,000 / \$50,000 = .30$$

Step 2:

Apply that proportion to the ordinance or law loss.

$$\$30,000 \times .30 = \$9,000$$

In this example, the most we will pay under this extension for the Coverage C loss is \$9,000, subject to the applicable Limit of Insurance and any other applicable provisions.

NOTE: The same procedure applies to losses under Coverages A and B of this extension.

- (6) We will not pay under this extension for the costs associated with the enforcement of any ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of pollutants.
- (7) The terms of this extension apply separately to each building to which this extension applies.
- (8) **SECTION B. - Exclusions, ITEM 1., Paragraph a. - Ordinance Or Law of the Causes of Loss - Special Form** does not apply to this extension.

o. Fine Arts

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to fine arts that are: Your property or the property of others that is in your care, custody or control.

The most we will pay for loss or damage under this extension is \$25,000 at each described premises.

No per item limitation applies to this extension.

- (1) This extension includes frames, display cases, storage units and protective enclosures used to display works of art. The value of fine arts will be the market value at the time of loss or damage. Loss or damage must result from a Covered Cause of Loss. Our payment for loss of or damage to property of others will only be for the account of the owner of the property.
- (2) As used in this extension, **Fine Arts** means:
- (a) Paintings, drawings, etchings, prints, lithographs, pictures;
 - (b) Tapestries, valuable rugs, books, manuscripts, antiques;
 - (c) Statuary, marbles, bronzes, silver, art glass windows, rare glass;
 - (d) Bric-a-brac and similar property of rarity, historical value or artistic merit.

p. Salesperson's Samples

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to Your Business Personal Property that are samples of your stock in trade (including containers) and to similar property of others while such property is in the custody of your sales representatives or agents, or yourself while acting as a sales representative, or while in transit between your premises and your sales representatives. Loss must be caused by a Covered Cause of Loss. Our payment for loss of or damage to property of others will be for the account of the owner of the property. A \$250 Deductible applies to this extension.

The most we will pay for loss or damage under this extension is \$1,000.

q. Damage to Building Caused By Theft or Vehicle

You may extend the insurance as found in the **Building and Personal Property Coverage Form** that applies to Your Business Personal Property to apply to damage caused directly by theft or attempted theft, or by a motor vehicle to:

- (1) That part of any building containing Covered Property; or
- (2) Equipment within the building used to maintain or service the building.

This extension applies only to a described premises where you are a tenant and are responsible for such damage. Damage caused by fire and damage to glass (including lettering or artwork on glass) are excluded under this extension. Coverage under this extension is included within Your Business Personal Property Limit of Insurance shown on the Declarations.

r. Fire Protection Equipment Recharge

- (1) You may extend the insurance provided by the **Building and Personal Property Coverage Form** to pay for the cost of recharging your fire extinguishing systems or fire extinguishers resulting from the discharge of the fire extinguishing agent.
- (2) We will not pay for loss or damage unless:
 - (a) The discharge is caused by a covered loss; or
 - (b) The discharge results from intended operation of fire protection equipment to prevent or control a Covered Cause of Loss; or
 - (c) The discharge is accidental; or
 - (d) The discharge results from a malfunction of the fire protection equipment; and
 - (e) You use reasonable care to maintain the fire protection equipment in proper operating condition.
- (3) We will not pay for loss or damage caused by discharge at the time of install or testing of the fire protection equipment.
- (4) The most we will pay for loss or damage under this Additional Coverage is \$15,000 in any one occurrence.
- (5) No Deductible applies to this Additional Coverage.

s. Forgery Or Alteration

- (1) You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to loss resulting directly from "forgery" or alteration of checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in "money" that are:
 - (a) Made or drawn by or drawn upon you; or
 - (b) Made or drawn by one acting as your agent, or that are purported to have been so made or drawn.
- (2) If you are sued for refusing to pay any instrument covered in Paragraph (1) above, on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defense.
- (3) We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.
- (4) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act, and will be treated the same as the original it replaced.
- (5) The most we will pay for any loss in any one "occurrence", including legal expenses, under this Additional Coverage is \$10,000 unless a different limit for "forgery" or alteration is shown in the Declarations.

t. Credit Card Slips

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to amounts you are unable to collect due to loss of or damage to credit card slips while located at the described premises as a result of a Covered Cause of Loss. It is your responsibility to establish the amount of the loss under this extension. If it is not possible, the amount of loss will be determined as follows:

- i. If you have been in business for more than twelve months at the location of the loss, one thirtieth (1/30) of the average monthly amount of credit card slips will be considered as average daily credit card slips for that location. The twelve months immediately preceding the discovery of the loss will be used to determine the average monthly amount.
- ii. If you have been in business for less than twelve months at the location of the loss, the average daily credit card slips shall be one thirtieth (1/30) of the average monthly amount of credit card slips for the number of months you have been in business at that location.
- iii. The average daily credit card slips will be multiplied by the number of days for which slips are lost to determine the amount of the loss, subject to the maximum limit indicated below.

The most we will pay as a result of loss or damage to credit card slips under this extension is \$5,000. No deductible applies to this extension.

u. Claim Data Expense

You may extend the insurance provided by the **Building and Personal Property Coverage Form** to apply to the expense you incur in preparing claim data when we require it. This includes the cost of taking inventories, making appraisals, and preparing other documentation to show the extent of loss.

The most we will pay for preparation of claim data is \$5,000.

We will not pay for any expenses billed by or payable to insurance adjusters or attorneys or any costs provided in the Loss Condition Appraisal.

v. Lock and Key Replacement-Premises

We will pay for replacement of premises locks or keys caused by the theft of keys from your premises.

The most we will pay for loss under this coverage is \$5,000.

Each loss for lock replacement covered by this coverage is subject to a \$50.00 per occurrence deductible. In order to qualify for this coverage the locking mechanism must sustain physical damage loss from a covered loss.

B. SECTION A., ITEM 4. - Additional Coverages of the Building and Personal Property Coverage Form is amended as follows:

1. Debris Removal - Increased Limit

The additional limit of coverage provided in Paragraph a., Subparagraph (4) is amended to read \$25,000.

2. Fire Department Service Charge - Increased Limit

The additional limit of coverage provided in Paragraph c. is amended to read \$10,000.

3. Pollutant Clean Up And Removal - Increased Limit

The additional limit of coverage shown in Paragraph d. is amended to read \$25,000.

C. SECTION B. - Exclusions of the Causes of Loss - Special Form is amended as follows:

1. Back-Up of Sewers & Drains

a. ITEM 1., Paragraph g. - Water, Subparagraph (3) is replaced by the following:

You may extend the insurance provided by the **Causes of Loss - Special Form** to apply to your Covered Property if damaged by water that backs up or overflows from a sewer, drain or sump.

The most we will pay for this additional Covered Cause of Loss is \$25,000.

2. Utility Services

a. ITEM 1, Paragraph e. - **Utility Services** is replaced by the following:

You may extend the insurance provided by the **Causes of Loss - Special Form** to apply to your Covered Property that sustains direct physical loss or damage caused by an interruption of electrical power or water supply services to the premises described in the Declarations. The interruption must result from direct physical loss resulting from a Covered Cause of Loss to any of the following property away from the described premises:

- (1) Water mains, pipes, aqueducts and other similar means of transporting water or steam;
- (2) Generating plants;
- (3) Switching stations, substations or pumping stations;
- (4) Transformers;
- (5) Transmission lines, except for overhead transmission lines.

We will **not** pay for any loss of income or extra expense that results from this direct physical loss to your Covered Property.

The most we will pay for loss or damage under this extension is \$25,000 per policy period.

D. SECTION F. - **Additional Coverage Extensions** of the **Causes of Loss - Special Form** are amended by the following:

1. **Property In Transit**

ITEM 1., Paragraph a. of the **Property in Transit Coverage Extension** is deleted and replaced by the following:

You may extend the insurance provided by the **Causes of Loss - Special Form** to apply to loss of or damage to personal property used in your business (excluding salesperson's samples) or property you have sold, including property where your interest continues until the property is delivered, while it is in transit.

a. We cover property:

- (1) Shipped by any type of carrier you do not own, lease or operate;
- (2) In or on any vehicle you own, lease or operate.

b. **SECTION B. - Exclusions, ITEM 1., Paragraph b. - Earth Movement, SECTION B. - Exclusions, ITEM 1., Paragraph g. - Water, SECTION B. - Exclusions, ITEM 2., Paragraph c., SECTION B. - Exclusions, ITEM 2., Paragraph e., SECTION B. - Exclusions, ITEM 2., Paragraph f., SECTION B. - Exclusions, ITEM 2., Paragraph g. and SECTION B.- Exclusions, ITEM 2., Paragraph j.** do not apply to this extension.

SECTION F. - Additional Coverage Extensions, ITEM 1., Paragraph c. of the Property in Transit Coverage Extension is deleted and replaced by the following:

The most we will pay for loss or damage under this extension is \$25,000.

E. **Building Glass Special Deductible**

1. **SECTION D. - Deductible**, of the **Business and Personal Property Coverage Form** is amended as follows:

Each occurrence of Building Glass breakage due to vandalism is subject to a \$250 Deductible, but we will not deduct more than the Deductible shown in the Declarations from the total amount of all loss or damage in any one occurrence.

F. **Definitions**

1. "Forgery" means the signing of the name of another person or organization with intent to deceive. It does not mean a signature, which consists in whole or in part, of one's own name signed with or without authority, in any capacity, for any purpose.
2. "Money" means:
 - a. Currency, coins and bank notes in current use and having a face value; and
 - b. Travelers checks, register checks and money orders held for sale to the public.

3. "Occurrence":

a. As respects the coverage provided in this endorsement for Money And Securities only, "occurrence" means:

- (1) An individual act;
- (2) The combined total of all separate acts whether or not related; or
- (3) A series of acts whether or not related;

committed by a person acting alone or in collusion with other persons, or not committed by any person, during the policy period shown in the Declarations, before such policy period or both.

b. As respects the coverage provided in this endorsement for Forgery Or Alteration only, "occurrence" means:

- (1) An individual act;
- (2) The combined total of all separate acts whether or not related; or
- (3) A series of acts whether or not related;

committed by a person acting alone or in collusion with other persons, involving one or more instruments, during the policy period shown in the Declarations, before such policy period or both.

4. "Securities" means negotiable and non-negotiable instruments or contracts representing either "money" or other property and includes:

- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
- b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you; but does not include "money".

5. "Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EQUIPMENT BREAKDOWN COVERAGE

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

- A.** The following is added as an Additional Coverage to the Causes of Loss - Basic Form, Broad Form or Special Form.

Additional Coverage -- Equipment Breakdown

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below.

- 1.** We will pay for direct physical damage to Covered Property that is the direct result of an "accident." As used in this Additional Coverage, "accident" means a fortuitous event that causes direct physical damage to "covered equipment." The event must be one of the following:

- a.** mechanical breakdown, including rupture or bursting caused by centrifugal force;
- b.** artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
- c.** explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
- d.** loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
- e.** loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.

- 2.** The following coverages also apply to the direct result of an "accident." These coverages do not provide additional amounts of insurance.

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay up to \$25,000, the reasonable extra cost to:

- (1)** make temporary repairs; and
- (2)** expedite permanent repairs or permanent replacement.

b. Hazardous Substances

We will pay for the additional cost to repair or replace Covered Property because of contamination by a "hazardous substance." This includes the additional expenses to clean up or dispose of such property.

This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in **2.c.(1)(b)** below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.

The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$25,000.

c. Spoilage

- (1)** We will pay:

- (a)** for physical damage to "perishable goods" due to spoilage;
- (b)** for physical damage to "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c)** any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.

- (2)** If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident," less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Valuation condition.

The most we will pay for loss, damage or expense under this coverage is \$50,000.

d. Data Restoration

We will pay for your reasonable and necessary cost to research, replace and restore lost "data."

The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$50,000.

e. Service Interruption

(1) Any insurance provided for Business Income, Extra Expense or Spoilage is extended to apply to your loss, damage or expense caused by an "accident" to equipment that is owned by a utility, landlord or other supplier with whom you have a contract to supply you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, internet access, telecommunications services, wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.

(2) Service Interruption coverage will not apply unless the failure or disruption of service exceeds 24 hours immediately following the "accident."

(3) The most we will pay for loss, damage or expense under this coverage is the limit that applies to Business Income, Extra Expense or Spoilage.

f. Business Income and Extra Expense

Any insurance provided under this coverage part for Business Income or Extra Expense is extended to the coverage provided by this endorsement.

The most we will pay for loss of Business Income you sustain or necessary Extra Expense you incur is the limit shown in the Declarations for that coverage.

3. EXCLUSIONS

All exclusions in the Causes of Loss form apply except as modified below and to the extent that coverage is specifically provided by this Additional Coverage Equipment Breakdown.

a. The exclusions are modified as follows:

(1) If the Causes of Loss -- Basic Form or Causes of Loss -- Broad Form applies, the following is added to Exclusion B.2.:

Depletion, deterioration, corrosion, erosion, wear and tear, or other gradually developing conditions. But if an "accident" results, we will pay for the resulting loss, damage or expense.

(2) The following is added to Exclusion B.1.g.:

However, if electrical "covered equipment" requires drying out because of Water as described in g.(1) through g.(3) above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies.

(3) If the Causes of Loss - Special Form applies, as respects this endorsement only, the last paragraph of Exclusion B.2.d. is deleted and replaced with the following:

But if an excluded cause of loss that is listed in 2.d.(1) through (7) results in an "accident," we will pay for the loss, damage or expense caused by that "accident."

b. We will not pay under this endorsement for loss, damage or expense caused by or resulting from:

(1) your failure to use all reasonable means to protect Covered Property from damage following an "accident";

(2) any defect, programming error, programming limitation, computer virus, malicious code, loss of "data," loss of access, loss of use, loss of functionality or other condition within or involving "data" or "media" of any kind. But if an "accident" results, we will pay for the resulting loss, damage or expense; or

(3) any of the following tests:

a hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment.

c. With respect to Service Interruption coverage, we will also not pay for an "accident" caused by or resulting from:

fire; lightning; windstorm or hail; explosion (except as specifically provided in A.1.c. above); smoke; aircraft or vehicles; riot or civil commotion; vandalism; sprinkler leakage; "falling objects"; weight of snow, ice or sleet; freezing; collapse; flood or earth movement.

d. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for:

- (1) loss caused by your failure to use due diligence and dispatch and all reasonable means to resume business; or
- (2) any increase in loss resulting from an agreement between you and your customer or supplier.

e. We will not pay under this endorsement for any loss or damage to animals.

4. DEFINITIONS

The following definitions are added:

a. "Covered equipment"

(1) "Covered equipment" means Covered Property:

- (a) that generates, transmits or utilizes energy, including electronic communications and data processing equipment; or
- (b) which, during normal usage, operates under vacuum or pressure, other than the weight of its contents.

(2) None of the following is "covered equipment":

- (a) structure, foundation, cabinet, compartment or air supported structure or building;
- (b) insulating or refractory material;
- (c) sewer piping, underground vessels or piping, or piping forming a part of a sprinkler system;
- (d) water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
- (e) "vehicle" or any equipment mounted on a "vehicle";
- (f) satellite, spacecraft or any equipment mounted on a satellite or spacecraft;
- (g) dragline, excavation or construction equipment; or
- (h) equipment manufactured by you for sale.

b. "Data" means information or instructions stored in digital code capable of being processed by machinery.

c. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.

d. "Media" means material on which "data" is recorded, such as magnetic tapes, hard disks, optical disks or floppy disks.

e. "One accident" means: If an initial "accident" causes other "accidents," all will be considered "one accident." All "accidents" that are the result of the same event will be considered "one accident."

f. "Perishable goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

g. "Vehicle" means, as respects this endorsement only, any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to, car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.

However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle."

B. The Building and Personal Property Coverage Form is modified as follows. The definitions stated above also apply to Section B. of this endorsement.

CONDITIONS

The following conditions are in addition to the Conditions in the Building and Personal Property Coverage Form and the Common Policy Conditions.

1. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "covered equipment." This can be done by mailing or delivering a written notice of suspension to:

- a. your last known address; or
- b. the address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment." If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.

2. Jurisdictional Inspections

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

3. Environmental, Safety and Efficiency Improvements

If "covered equipment" requires replacement due to an "accident", we will pay your additional cost to replace with equipment that is better for the environment, safer or more efficient than the equipment being replaced.

However, we will not pay more than 125% of what the cost would have been to repair or replace with like kind and quality. This condition does not increase any of the applicable limits. This condition does not apply to any property to which Actual Cash Value applies.

The most we will pay for loss, damage or expense under this endorsement arising from any "one accident" is the applicable Limit of Insurance in the Declarations. Coverage provided under this endorsement does not provide an additional amount of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

IDENTITY RECOVERY COVERAGE

IDENTITY THEFT CASE MANAGEMENT SERVICE AND EXPENSE REIMBURSEMENT

The following is added as an Additional Coverage to the **Building and Personal Property Coverage Form**:

IDENTITY RECOVERY COVERAGE

We will provide the Case Management Service and Expense Reimbursement Coverage indicated below if all of the following requirements are met:

1. There has been an "identity theft" involving the personal identity of an "identity recovery insured" under this policy; and
2. Such "identity theft" is first discovered by the "identity recovery insured" during the policy period for which this Identity Recovery coverage is applicable; and
3. Such "identity theft" is reported to us within 60 days after it is first discovered by the "identity recovery insured."

If all three of the requirements listed above have been met, then we will provide the following to the "identity recovery insured":

1. Case Management Service

Services of an "identity recovery case manager" as needed to respond to the "identity theft"; and

2. Expense Reimbursement

Reimbursement of necessary and reasonable "identity recovery expenses" incurred as a direct result of the "identity theft."

This coverage is additional insurance.

EXCLUSIONS

The following additional exclusions apply to this coverage:

We do not cover loss or expense arising from any of the following.

1. The theft of a professional or business identity.
2. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any authorized representative of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion shall not apply to the interests of an "identity recovery insured" who has no knowledge of or involvement in such fraud, dishonesty or criminal act.
3. An "identity theft" that is not reported in writing to the police.

LIMITS

1. Case Management Service is available as needed for any "identity theft" for up to 12 consecutive months from the inception of the service for that "identity theft". Expenses we incur to provide Case Management Service do not reduce the amount of limit available for Expense Reimbursement coverage.
2. Expense Reimbursement coverage is subject to a limit of \$15,000 annual aggregate per "identity recovery insured." Regardless of the number of claims, this limit is the most we will pay for the total of all loss or expense arising out of all "identity thefts" to any one "identity recovery insured" which are first discovered by the "identity recovery insured" during a 12-month period starting with the beginning of the present annual policy period. If an "identity theft" is first discovered in one policy period and continues into other policy periods, all loss and expense arising from such "identity theft" will be subject to the aggregate limit applicable to the policy period when the "identity theft" was first discovered.
3. Legal costs as provided under item d. of the definition of "identity recovery expenses" are part of, and not in addition to, the Expense Reimbursement coverage limit.
4. **Item e.** Lost Wages and **item f.** Child and Elder Care Expenses of the definition of "identity recovery expenses" are jointly subject to a sublimit of \$5,000. This sublimit is part of, and not in addition to, the Expense Reimbursement coverage limit. Coverage is limited to wages lost and expenses incurred within 12 months after the first discovery of the "identity theft" by the "identity recovery insured."
5. **Item g.** Miscellaneous Unnamed Costs of the definition of "identity recovery expenses" is subject to a sublimit of \$1,000. This sublimit is part of, and not in addition to, the Expense Reimbursement coverage limit. Coverage is limited to costs incurred within 12 months after the first discovery of the "identity theft" by the "identity recovery insured."

DEDUCTIBLE

Neither the Case Management Service nor the Expense Reimbursement coverage is subject to a deductible.

CONDITIONS

The following additional conditions apply to this coverage:

1. Help Line

For assistance, the "identity recovery insured" should call the **Identity Recovery Help Line** at **1-800-414-9792**.

The **Identity Recovery Help Line** can provide the "identity recovery insured" with:

- a. Information and advice for how to respond to a possible "identity theft"; and
- b. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an "identity recovery insured" prior to a determination that a covered "identity theft" has occurred. Our provision of such services is not an admission of liability under the policy. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered "identity theft" has not occurred.

As respects Expense Reimbursement Coverage, the "identity recovery insured" must send to us, within 60 days after our request, receipts, bills or other records that support his or her claim for "identity recovery expenses."

2. Services

The following conditions apply as respects any services provided by us or our designees to any "identity recovery insured" under this endorsement:

- a. Our ability to provide helpful services in the event of an "identity theft" depends on the cooperation, permission and assistance of the "identity recovery insured."
- b. All services may not be available or applicable to all individuals. For example, "identity recovery insureds" who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
- c. We do not warrant or guarantee that our services will end or eliminate all problems associated with an "identity theft" or prevent future "identity thefts."

DEFINITIONS

With respect to the provisions of this endorsement only, the following definitions are added:

1. **"Identity Recovery Case Manager"** means one or more individuals assigned by us to assist an "identity recovery insured" with communications we deem necessary for re-establishing the integrity of the personal identity of the "identity recovery insured." This includes, with the permission and cooperation of the "identity recovery insured," written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.
2. **"Identity Recovery Expenses"** means the following when they are reasonable and necessary expenses that are incurred as a direct result of an "identity theft":
 - a. Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an "identity theft."
 - b. Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of your efforts to report an "identity theft" or amend or rectify records as to your true name or identity as a result of an "identity theft."
 - c. Costs for credit reports from established credit bureaus.
 - d. Fees and expenses for an attorney approved by us for the following:
 - (1) The defense of any civil suit brought against an "identity recovery insured."
 - (2) The removal of any civil judgment wrongfully entered against an "identity recovery insured."
 - (3) Legal assistance for an "identity recovery insured" at an audit or hearing by a governmental agency.
 - (4) Legal assistance in challenging the accuracy of the "identity recovery insured's" consumer credit report.
 - (5) The defense of any criminal charges brought against an "identity recovery insured" arising from the actions of a third party using the personal identity of the "identity recovery insured."

- e. Actual lost wages of the "identity recovery insured" for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.
- f. Actual costs for supervision of children or elderly or infirm relatives or dependants of the "identity recovery insured" during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the "identity recovery insured."
- g. Any other reasonable costs necessarily incurred by an "identity recovery insured" as a direct result of the "identity theft." Such costs include:
 - (1) Costs by the "identity recovery insured" to recover control over his or her personal identity.
 - (2) Deductibles or service fees from financial institutions.Such costs do not include:
 - (1) Costs to avoid, prevent or detect "identity theft" or other loss.
 - (2) Monies lost or stolen.
 - (3) Costs that are restricted or excluded elsewhere in this endorsement or policy.

3. **"Identity Recovery Insured"** means the following:
- a. A full time employee of the entity insured under this policy; or
 - b. An owner of the entity insured under this policy who meets any of the following criteria:
 - (1) A sole proprietor of the insured entity;
 - (2) A partner in the insured entity; or
 - (3) An individual having an ownership position of 20% or more of the insured entity.
- Seasonal, temporary or leased employees are not considered employees in regards to this Identity Recovery coverage.
- An identity recovery insured must always be an individual person. The entity insured under this policy is not an identity recovery insured.
4. **"Identity Theft"** means the fraudulent use of the social security number or other method of identifying an "identity recovery insured." This includes fraudulently using the personal identity of an "identity recovery insured" to establish credit accounts, secure loans, enter into contracts or commit crimes.
- "Identity theft" does not include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

All other provisions of this policy apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LOSS PAYABLE PROVISIONS

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
BUILDERS' RISK COVERAGE FORM
CONDOMINIUM ASSOCIATION COVERAGE FORM
CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM
STANDARD PROPERTY POLICY

SCHEDULE

<u>Premises Number</u>		<u>Building Number</u>		<u>Applicable Clause</u> (Enter C., D., E., or F.):	
<u>Description Of Property</u>					
<u>Loss Payee Name:</u> "SEE CONTINUOUS DECLARATIONS"					
<u>Loss Payee Address:</u>					
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.					

- A.** When this endorsement is attached to the Standard Property Policy **CP 00 99**, the term Coverage Part in this endorsement is replaced by the term Policy.
- B.** Nothing in this endorsement increases the applicable Limit of Insurance. We will not pay any Loss Payee more than their financial interest in the Covered Property, and we will not pay more than the applicable Limit of Insurance on the Covered Property.

The following is added to the **Loss Payment** Loss Condition, as indicated in the Declarations or in the Schedule:

C. Loss Payable Clause

For Covered Property in which both you and a Loss Payee shown in the Schedule or in the Declarations have an insurable interest, we will:

1. Adjust losses with you; and
2. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.

D. Lender's Loss Payable Clause

1. The Loss Payee shown in the Schedule or in the Declarations is a creditor, including a mortgageholder or trustee, whose interest in Covered Property is established by such written instruments as:
 - a. Warehouse receipts;
 - b. A contract for deed;
 - c. Bills of lading;
 - d. Financing statements; or
 - e. Mortgages, deeds of trust, or security agreements.

2. For Covered Property in which both you and a Loss Payee have an insurable interest:
 - a. We will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear.
 - b. The Loss Payee has the right to receive loss payment even if the Loss Payee has started foreclosure or similar action on the Covered Property.
 - c. If we deny your claim because of your acts or because you have failed to comply with the terms of the Coverage Part, the Loss Payee will still have the right to receive loss payment if the Loss Payee:
 - (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.All of the terms of this Coverage Part will then apply directly to the Loss Payee.
 - d. If we pay the Loss Payee for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:
 - (1) The Loss Payee's rights will be transferred to us to the extent of the amount we pay; and
 - (2) The Loss Payee's rights to recover the full amount of the Loss Payee's claim will not be impaired.At our option, we may pay to the Loss Payee the whole principal on the debt plus any accrued interest. In this event, you will pay your remaining debt to us.
3. If we cancel this policy, we will give written notice to the Loss Payee at least:
 - a. 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
4. If we elect not to renew this policy, we will give written notice to the Loss Payee at least 10 days before the expiration date of this policy.

E. Contract Of Sale Clause

1. The Loss Payee shown in the Schedule or in the Declarations is a person or organization you have entered a contract with for the sale of Covered Property.
2. For Covered Property in which both you and the Loss Payee have an insurable interest we will:
 - a. Adjust losses with you; and
 - b. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.
3. The following is added to the **Other Insurance** Condition:

For Covered Property that is the subject of a contract of sale, the word "you" includes the Loss Payee.

F. Building Owner Loss Payable Clause

1. The Loss Payee shown in the Schedule or in the Declarations is the owner of the described building, in which you are a tenant.
2. We will adjust losses to the described building with the Loss Payee. Any loss payment made to the Loss Payee will satisfy your claims against us for the owner's property.
3. We will adjust losses to tenants' improvements and betterments with you, unless the lease provides otherwise.



COMMERCIAL LINES POLICY
COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

Merchants Mutual Insurance Company
Buffalo, New York

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Number: CMP9143810

Policy Period: 03/17/14 to 03/17/15

TOTAL PREMIUM FOR THIS COVERAGE PART: \$8,509.00
INCLUDES TERRORISM RISK INSURANCE ACT PREMIUM OF: \$0.00
SUBJECT TO AUDIT: ANNUAL

LIMITS OF INSURANCE

General Aggregate Limit
(Other Than Products-Completed Operations) \$2,000,000

Products-Completed Operations Aggregate Limit \$2,000,000

Personal & Advertising Injury Liability Limit \$1,000,000

Each Occurrence Limit \$1,000,000

Damage to Premises Rented to You Limit
(Any one Premises) \$100,000

Medical Expense Limit (Any One Person) \$5,000

Designated Construction Project(s) General Aggregate Limit (CG2503) -
Designated Construction Projects:

ALL INSURED JOBS IN SPECIFIED STATES

CLASSIFICATION SCHEDULE

Loc.No. Bldg.No. State
001 001 NY

Class Code	Classification	Premium Base
059482	STONE CUTTING OR POLISHING	\$ 1,280,000 GROSS SALES
091583	CONTRACTORS - SUBCONTR WK-BLDG CONST-1 OR 2 FAMILY DWELLINGS	IF ANY
099746	TILE-STONE/MARBLE MOSAIC/TERRAZZO WORK - INTERIOR CONSTRUCTION	\$ 45,700 PAYROLL



COMMERCIAL LINES POLICY
COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

Merchants Mutual Insurance Company
Buffalo, New York

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Number: CMP9143810

Policy Period: 03/17/14 to 03/17/15

CLASSIFICATION SCHEDULE

Loc.No. Bldg.No. State
002 001 NY

Class Code	Classification	Premium Base
061226	BUILDINGS OR PREMISES - OFFICE - NOC - OTHER THAN NOT FOR PROFIT PRODUCTS-COMPLETED OPERATIONS ARE SUBJECT TO THE GENERAL AGGREGATE LIMIT	2,133 AREA

FORMS AND ENDORSEMENTS ATTACHED AT INCEPTION APPLYING TO THIS
COVERAGE PART AND MADE PART OF THIS POLICY AT TIME OF ISSUE.

- * CG 24 04 (10/93) WAIVER OF TRANSFER OF RIGHTS OF RECOV'Y AGAINST OTHERS TO US
- MU 79 33 (04/07) ASBESTOS EXCLUSION
- * CG 00 01 (04/13) COMMERCIAL GENERAL LIABILITY COVERAGE FORM
- CG 01 04 (12/04) NEW YORK CHANGES-PREMIUM AUDIT
- CG 01 63 (07/11) NEW YORK CHANGES - COMPREHENSIVE GENERAL LIABILITY COVERAGE
- * CG 20 10 (04/13) ADDITIONAL INSURED-OWNERS, LESSEES OR CONTRACTORS
- * CG 20 11 (04/13) ADDITIONAL INSURED-MANAGERS OR LESSORS OF PREMISES
- * CG 20 37 (04/13) ADDITIONAL INSURED-OWNER, LESSEES OR CONTR-COMPL OPERATIONS
- CG 21 32 (05/09) COMMUNICABLE DISEASE EXCLUSION
- CG 21 47 (12/07) EMPLOYMENT RELATED PRACTICES EXCLUSION
- * CG 21 65 (12/04) TOTAL POLLUTION EXCL WITH A BUILDING HEATING EQUIP EXCEPTION
- CG 21 71 (06/08) EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE US
- CG 25 03 (03/97) DESIGNATED CONSTRUCTION PROJECT(S) GENERAL AGGREGATE LIMIT
- CG 26 21 (10/91) NY CHANGES-TRANSFER OF DUTIES WHEN A LIMIT OF INS IS USED-UP
- CL 01 75 (02/86) QUICK REFERENCE - COMMERCIAL GENERAL LIABILITY COVERAGE PART
- IL 00 23 (07/02) NUCLEAR ENERGY LIABILITY EXCLUSION ENDROSEMENT (BROAD FORM)
- * MU 76 50 (11/99) GENERAL LIABILITY DECLARATIONS
- * MU 89 32 (03/14) POLICYHOLDER NOTICE - GENERAL LIABILITY
- * MU 89 58 (03/14) GENERAL LIABILITY COMPLETE CGL COVERAGE FORM



COMMERCIAL LINES POLICY
COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

Merchants Mutual Insurance Company
Buffalo, New York

Named Insured: ELEGANTE GRANITE & MARBLE INC

Policy Number: CMP9143810

Policy Period: 03/17/14 to 03/17/15

Additional Insured(s):

2 SPEIGEL ASSOCIATES & 58 SYLVESTER STREET LLC
PO BOX 6
HICKSVILLE, NY 11802-0006

TYPE: MANAGERS OR LESSORS OF PREMISES - CG 2011

DESIGNATION OF PREMISES:
58 SYLVESTER ST WESTBURY, NY 11590

4 25 CC ST74B LLC AND CONSTRUCTOMICS LLC 45 WEST 21ST 5TH FLOOR NY NY 10010
25 COLUMBUS CIRCLE
UNIT 74B/75B
NEW YORK, NY 10019-1107

TYPE: OWNERS, LESSEES OR CONTRACTORS - CG 2010

LOCATION OF COVERED OPERATIONS:
JOB LOCATION 25 COLUMBUS CIRCLE UNIT 74B/75B NEW YORK NY

5 HINABEN & SANJAY JOBANPUTRA
400 BERRY HILL RD
OYSTER BAY COVE, NY 11791-1103

TYPE: OWNERS, LESSEES, CONTRACTORS - COMPL OPS - CG2037

DESIGNATION OF PREMISES:
400 BERRY HILL RD OYSTER BAY COVE NY

LOCATION OF COVERED OPERATIONS:
NEW YORK STATE

QUICK REFERENCE COMMERCIAL GENERAL LIABILITY COVERAGE PART

READ YOUR POLICY CAREFULLY

The Commercial General Liability Coverage Part in your policy consists of Declarations, a Coverage Form (either CG 00 01 or CG 00 02), Common Policy Conditions and Endorsements, if applicable. Following is a Quick Reference indexing of the principal provisions contained in each of the components making up the Coverage Part, listed in sequential order, except for the provisions in the Declarations which may not be in the sequence shown.

DECLARATIONS

- Named Insured and Mailing Address
- Policy Period
- Description of Business and Location of Premises
- Limits of Insurance
- Forms and Endorsements applying to the Coverage Part at time of issue

COVERAGE FORM (CG 00 01 or CG 00 02)

SECTION I - COVERAGES

- Coverage A - Bodily Injury and Property Damage Liability

- Insuring Agreement
 - Exclusions

- Coverage - Personal and Advertising Injury Liability

- Insuring Agreement
 - Exclusions

- Coverage C - Medical Payments

- Insuring Agreement
 - Exclusions

- Supplementary Payments

SECTION II - WHO IS AN INSURED

SECTION III - LIMITS OF INSURANCE

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

- Bankruptcy

- Duties in the Event of Occurrence, Claim or Suit

- Legal Action Against Us

- Other Insurance

- Premium Audit

- Representations

- Separation of Insureds

- Transfer of Rights of Recovery Against Others to Us

- When We Do Not Renew (applicable to CG 00 02 only)

- Your Right to Claim and "Occurrence" Information (applicable to CG 00 02 only)

SECTION V - EXTENDED REPORTED PERIODS (applicable to CG 00 02 only)

SECTION VI - DEFINITIONS (SECTION V in CG 00 01)

COMMON POLICY CONDITIONS (IL 00 17)

- Cancellation

- Changes

- Examination of Your Books and Records

- Inspections and Surveys

- Premiums

- Transfer of Your Rights and Duties under this Policy

ENDORSEMENTS (If Any)

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1)** "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a)** At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i)** "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii)** "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b)** At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c)** Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i)** Any insured; or
 - (ii)** Any person or organization for whom you may be legally responsible; or
 - (d)** At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i)** "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii)** "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
 - (e)** At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage To Property

"Property damage" to:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or

- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c. through n. do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III – Limits Of Insurance.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transactions Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

COVERAGE C – MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
 - (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;provided that:
 - (a) The accident takes place in the "coverage territory" and during the policy period;
 - (b) The expenses are incurred and reported to us within one year of the date of the accident; and
 - (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.
- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:
 - (1) First aid administered at the time of an accident;
 - (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

- 1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
 - a. All expenses we incur.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
 - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
 - e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
 - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
 - b. This insurance applies to such liability assumed by the insured;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
 - d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
 - e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
 - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
 - (2) Provides us with written authorization to:
 - (a) Obtain records and other information related to the "suit"; and
 - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
 - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a.** Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a)** To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b)** To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1)(a)** above;
- (c)** For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph **(1)(a)** or **(b)** above; or
- (d)** Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a)** Owned, occupied or used by;
- (b)** Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b.** Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- c.** Any person or organization having proper temporary custody of your property if you die, but only:

- (1)** With respect to liability arising out of the maintenance or use of that property; and
- (2)** Until your legal representative has been appointed.

- d.** Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a.** Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b.** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c.** Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III – LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a.** Insureds;
- b.** Claims made or "suits" brought; or
- c.** Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a.** Medical expenses under Coverage **C**;
- b.** Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c.** Damages under Coverage **B**.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph 2. above, the Personal And Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C
 because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the "occurrence" or offense took place;
 - (2) The names and addresses of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or "suit" and the date received; and
 - (2) Notify us as soon as practicable.
 You must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(2) When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) The total of all deductible and self-insured amounts under all that other insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;

- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
 - (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication; provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in Paragraph a. above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a.** A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b.** A sidetrack agreement;
- c.** Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d.** An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e.** An elevator maintenance agreement;
- f.** That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1)** That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2)** That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a)** Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b)** Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3)** Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(2)** above and supervisory, inspection, architectural or engineering activities.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a.** After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b.** While it is in or on an aircraft, watercraft or "auto"; or
- c.** While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1)** Power cranes, shovels, loaders, diggers or drills; or
 - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2)** Cherry pickers and similar devices used to raise or lower workers;
- f.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1) Products that are still in your physical possession; or
- (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES - PREMIUM AUDIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS WITHDRAWAL COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. Paragraph **b.** of the **Premium Audit** Condition (Section IV) is replaced by the following:

PREMIUM AUDIT

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. An audit to determine the final premium due or to be refunded will be completed within 180 days after the expiration date of the policy. But the audit may be waived if the total annual premium attributable to the auditable exposure base is not reasonably expected to exceed \$1500. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.

B. Except as provided in Paragraph **A.** above, the **Examination Of Your Books And Records** Common Policy Condition continues to apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEW YORK CHANGES -
COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Paragraph 1. Insuring Agreement of Section I - Coverage A Bodily Injury And Property Damage Liability is replaced by the following:

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized

by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

B. Paragraph 1.a. of Section I - Coverage B Personal And Advertising Injury Liability is replaced by the following:

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages even if the allegations of the "suit" are groundless, false or fraudulent. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A and B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

C. The following is added as Paragraph e. to the Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition (Paragraph 2. of Section IV - Commercial General Liability Conditions):

e. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any agent of ours in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.

D. Paragraph 3. of Section IV - Commercial General Liability Conditions is replaced by the following:

3. Legal Action Against Us

a. Except as provided in Paragraph b., no person or organization has a right under this Coverage Part:

(1) To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

(2) To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

b. With respect to "bodily injury" and "personal and advertising injury" claims, if we deny coverage or do not admit liability because an insured or the injured person, someone acting for the injured person or other claimant fails to give us written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial of coverage or nonadmission of liability is based on the failure to provide timely notice.

However, the injured person, someone acting for the injured person or other claimant may not bring an action if within 60 days after we deny coverage or do not admit liability, we or an insured:

(1) Brings an action to declare the rights of the parties under the policy; and

(2) Names the injured person, someone acting for the injured person or other claimant as a party to the action.

E. The following provision is added and supersedes any provision to the contrary:

Failure to give notice to us as required under this Coverage Part shall not invalidate any claim made by the insured, injured person or any other claimant, unless the failure to provide such timely notice has prejudiced us. However, no claim made by the insured, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter.

F. The definition of "loading or unloading" in the Definitions Section does not apply.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designation Of Premises (Part Leased To You):
Name Of Person(s) Or Organization(s) (Additional Insured):
Additional Premium: \$
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMUNICABLE DISEASE EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:

2. Exclusions

This insurance does not apply to:

Communicable Disease

"Bodily injury" or "property damage" arising out of the actual or alleged transmission of a communicable disease.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
- b. Testing for a communicable disease;
- c. Failure to prevent the spread of the disease; or
- d. Failure to report the disease to authorities.

B. The following exclusion is added to Paragraph 2. Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:

2. Exclusions

This insurance does not apply to:

Communicable Disease

"Personal and advertising injury" arising out of the actual or alleged transmission of a communicable disease.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
- b. Testing for a communicable disease;
- c. Failure to prevent the spread of the disease; or
- d. Failure to report the disease to authorities.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability:

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I - Coverage B - Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL POLLUTION EXCLUSION WITH A BUILDING HEATING, COOLING AND DEHUMIDIFYING EQUIPMENT EXCEPTION AND A HOSTILE FIRE EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Exclusion f. under Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability** is replaced by the following:

This insurance does not apply to:

f. Pollution

- (1) "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

This exclusion does not apply to:

- (a) "Bodily injury" if sustained within a building which is or was at any time owned or occupied by, or rented or loaned to, any insured and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests; or
- (b) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire" unless that "hostile fire" occurred or originated:

- (i) At any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste; or

- (ii) At any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations to test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION OF OTHER ACTS OF TERRORISM
COMMITTED OUTSIDE THE UNITED STATES; CAP ON
LOSSES FROM CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
UNDERGROUND STORAGE TANK POLICY

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of an "other act of terrorism" that is committed outside of the United States (including its territories and possessions and Puerto Rico), but within the "coverage territory". However, this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25,000,000 (valued in U.S. dollars). In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ; or

3. The terrorism involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
4. The terrorism is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
5. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the terrorism was to release such materials.

With respect to this exclusion, Paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

B. The following definitions are added:

1. For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.

2. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:
- a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act;
 - b. The act resulted in damage:
 - (1) Within the United States (including its territories and possessions and Puerto Rico); or
 - (2) Outside of the United States in the case of:
 - (a) An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
 - (b) The premises of any United States mission; and
 - c. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
3. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property or infrastructure that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".
- Multiple incidents of an "other act of terrorism" which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.
- C. In the event of an "other act of terrorism" that is not subject to this exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.
 - D. If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DESIGNATED CONSTRUCTION PROJECT(S)
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Projects:

SEE CONTINUOUS DECLARATIONS PAGE

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

- A.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
- 4.** The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.
- B.** For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:
1. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.
- C.** When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the products-completed operations hazard will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.

D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

E. The provisions of Limits Of Insurance (SECTION III) not otherwise modified by this endorsement shall continue to apply as stipulated.

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK CHANGES - TRANSFER OF DUTIES WHEN A LIMIT OF INSURANCE IS USED UP

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following Condition is added to COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):

Transfer of Duties When a Limit of Insurance Is Used Up.

a. If we conclude that, based on "occurrences," of-fenses, claims or "suits" which have been reported to us and to which this insurance may apply, the:

- (1) General Aggregate Limit (other than the Products/Completed Operations Aggregate Limit);
- (2) Products/Completed Operations Aggregate Limit;
- (3) Personal and Advertising Injury Limit;
- (4) Each Occurrence Limit; or
- (5) Fire Damage Limit

is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.

b. When a limit of insurance described in paragraph a. above has actually been used up in the payment of judgements or settlements:

- (1) We will notify the first Named Insured, in writing, as soon as practicable, that:
 - (a) Such a limit has actually been used up; and
 - (b) Our duty to defend "suits" seeking damages subject to that limit has also ended.
- (2) We will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and "suits" seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claims and "suits".

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such "suits" until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any claim or "suit" seeking damages that would have been subject to that limit, had it not been used up, if the claim or "suit" is reported to us after that limit of insurance has been used up.

- (3) The first Named Insured, and any other insured involved in a "suit" seeking damages subject to that limit, must arrange for the defense of such "suit" within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such "suit" must be made as soon as practicable.

c. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with paragraph b.(2) above.

The duty of the first Named Insured to reimburse us will begin on:

- (1) The date on which the applicable limit of insurance is used up, if we sent notice in accordance with paragraph a. above; or
 - (2) The date on which we sent notice in accordance with paragraph b.(1) above, if we did not send notice in accordance with paragraph a. above.
- d. The exhaustion of any limit of insurance by the payments of judgements or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
(Broad Form)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
SPECIAL PROTECTIVE AND HIGHWAY LIABILITY POLICY NEW YORK DEPARTMENT OF TRANSPORTATION

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

(1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material," if:

(1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or

(3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material," "Special nuclear material" or "by-product material".

"Source material," "special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

- (a) Any "nuclear reactor";
- (b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";
- (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
- (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

**MERCHANTS MUTUAL INSURANCE COMPANY
MERCHANTS PREFERRED INSURANCE COMPANY**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ASBESTOS EXCLUSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
COMMERCIAL GENERAL LIABILITY COVERAGE FORM
COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising, in whole or in part, either directly or indirectly out of the manufacture, storage, processing, mining, use, sale, installation, removal, disposal, distribution, handling, inhalation, ingestion, absorption or existence of, exposure to or contact with asbestos, asbestos contained in goods, products or materials, asbestos fibers or asbestos dust;
2. Any loss, cost or expense arising out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize or in any way respond to or assess the effects of asbestos, asbestos contained in goods, products or materials, asbestos fibers or asbestos dust; or
 - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing or in any way responding to or assessing the effects of asbestos, asbestos contained in goods, products or materials, asbestos fibers or asbestos dust.
3. This exclusion also applies to:
 - (a) Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with the above; and
 - (b) Any obligation to share damages with or repay someone else who must pay damages because of such injury or damage.

**MERCHANTS MUTUAL INSURANCE COMPANY
MERCHANTS PREFERRED INSURANCE COMPANY****2012 GENERAL LIABILITY MULTISTATE FORMS REVISION
ADVISORY NOTICE TO POLICYHOLDERS**

This is a summary of the major changes in your policy. No coverage is provided by this summary nor can it be construed to replace any provision of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this summary, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

The major areas within the policy that broaden or reduce coverage, and other changes, are highlighted below. This notice does not reference every editorial change made in your policy. We have followed the policy sequence of provisions in setting out this material.

COMMERCIAL GENERAL LIABILITY COVERAGE FORMS
CG 00 01 04 13

I. EXCLUSIONS**A. BROADENING OF COVERAGE**

1. Coverage **A** – Exclusion **2.c.** (Liquor Liability) is revised to provide an exception with respect to allowing a person to bring alcoholic beverages onto the named insured's premises for consumption on the named insured's premises.
2. Coverage **A** – Exclusion **2.p.** (Electronic Data) is revised to introduce an exception for liability for damages because of bodily injury.

B. OTHER CHANGES

1. Coverage **A** – Exclusion **2.c.** (Liquor Liability) is revised to reinforce that the exclusion applies even if claims against an insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, or providing or failing to provide transportation with respect to any person that may be under the influence of alcohol.
2. Coverage **A** – Exclusion **2.g.** (Aircraft, Auto Or Watercraft) is revised to delete reference to "in the state".
3. Coverage **A** – Exclusion **2.q.** and Coverage **B** – Exclusion **2.p.** (Recording And Distribution Of Material Or Information In Violation Of Law) were previously added to your policy via mandatory endorsement. The endorsement contained an exclusion addressing injury or damage arising out of any action or omission that violates or is alleged to violate certain statutes, ordinances and regulations. This exclusion has been incorporated directly into your policy.
4. Coverage **B** – Exclusions **2.b.** and **2.c.** (Material Published With Knowledge Of Falsity and Material Published Prior To Policy Period) are revised to reference "in any manner", with respect to oral or written publication, for consistency with the definition of personal and advertising injury.

II. CONDITIONS**OTHER CHANGES**

Condition **4.** (Other Insurance) is generally revised so that the insurance provided is excess over any for which the named insured has been added as an additional insured, whether by endorsement or any other means.

III. DEFINITIONS

OTHER CHANGES

1. Definition 2. (Auto) is revised to delete reference to "in the state" with respect to where a vehicle is licensed or principally garaged.
2. Definition 12. (Mobile Equipment) is revised to delete reference to "in the state" with respect to where a vehicle is licensed or principally garaged.

OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE FORM – COVERAGE FOR OPERATIONS OF DESIGNATED CONTRACTOR CG 00 09 04 13

I. EXCLUSIONS

BROADENING OF COVERAGE

Exclusion 2.I. (Electronic Data) is revised to introduce an exception for liability for damages because of bodily injury.

II. DEFINITIONS

OTHER CHANGES

1. Definition 1. (Auto) is revised to delete reference to "in the state" with respect to where a vehicle is licensed or principally garaged.
2. Definition 10. (Mobile Equipment) is revised to delete reference to "in the state" with respect to where a vehicle is licensed or principally garaged.

LIQUOR LIABILITY COVERAGE FORMS CG 00 33 04 13

WHO IS AN INSURED

BROADENING OF COVERAGE

We have included trusts as Named Insureds. In addition, trustees have been included as insureds but only with respect to their duties as trustees.

MULTISTATE ENDORSEMENTS

A. BROADENING OF COVERAGE

1. Electronic Data Liability Endorsement **CG 04 37** is revised to introduce an exception to the electronic data exclusion in order to provide that the exclusion does not apply to liability for damages because of bodily injury.
2. Additional Insured – Owners, Lessees Or Contractors – Automatic Status For Other Parties When Required In Written Construction Agreement Endorsement **CG 20 38** is introduced to provide additional insured status to those parties whom the named insured is obligated in writing in a contract or agreement to name as an additional insured.
3. Druggists Endorsement **CG 22 69** is revised to introduce an exception for the administering of vaccinations.
4. Liquor Liability – Bring Your Own Alcohol Establishments Endorsement **CG 24 06** is introduced to provide coverage to insureds who permit any person to bring any alcoholic beverage on an insured's premises, for consumption on the insured's premises.

B. REDUCTIONS OF COVERAGE

1. Additional Insured – Users Of Golfmobiles Endorsement **CG 20 08** is revised to include a definition of the term golfmobile.
2. **Liquor Liability Exclusion Endorsements**
The following endorsements are revised to indicate that the liquor liability exclusion will apply if a named insured permits any person to bring any alcoholic beverages on the named insured's premises, for consumption on the named insured's premises:
 - **CG 21 50** – Amendment Of Liquor Liability Exclusion (for use with Commercial General Liability Coverage Part)
 - **CG 21 51** – Amendment Of Liquor Liability Exclusion – Exception For Scheduled Premises Or Activities (for use with Commercial General Liability Coverage Part)
3. Amendment Of Personal And Advertising Injury Definition Endorsement **CG 24 13** is introduced to remove from the definition of personal and advertising injury the offense of oral and written publication, in any manner, of material that violates a person's right of privacy.

C. OTHER CHANGES

1. Primary And Noncontributory – Other Insurance Condition Endorsement **CG 20 01** is introduced to revise the Other Insurance Condition to indicated that coverage is provided to an additional insured on a primary and noncontributory basis, provided that certain requirements are met.

2. Additional Insured Endorsements

The following additional insured endorsements are revised to indicate that when these endorsements are attached to a policy, if coverage provided to the additional insured is required by contract or agreement, coverage to the additional insured will be afforded to the extent permissible by law and to the extent the named insured is required by the contract or agreement to provide insurance for the additional insured.

Additionally, if coverage provided to the additional insured is required by contract or agreement, the limits of insurance of the named insured's policy that are available to an additional insured will be limited to the extent required by the contract or agreement or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations, whichever is less:

- **CG 20 03** – Additional Insured – Concessionaires Trading Under Your Name
- **CG 20 05** – Additional Insured – Controlling Interest
- **CG 20 07** – Additional Insured – Engineers, Architects Or Surveyors
- **CG 20 10** – Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization
- **CG 20 11** – Additional Insured – Managers Or Lessors Of Premises
- **CG 20 12** – Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations
- **CG 20 13** – Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations Relating To Premises
- **CG 20 15** – Additional Insured – Vendors
- **CG 20 18** – Additional Insured – Mortgagee, Assignee Or Receiver
- **CG 20 23** – Additional Insured – Executors, Administrators, Trustees Or Beneficiaries
- **CG 20 24** – Additional Insured – Owners Or Other Interest From Whom Land Has Been Leased
- **CG 20 26** – Additional Insured – Designated Person Or Organization
- **CG 20 27** – Additional Insured – Co-owner Of Insured Premises
- **CG 20 28** – Additional Insured – Lessor Of Leased Equipment
- **CG 20 29** – Additional Insured – Grantor Of Franchise
- **CG 20 30** – Oil Or Gas Operations – Nonoperating, Working Interests
- **CG 20 31** – Additional Insured – Engineers, Architects Or Surveyors

- **CG 20 32** – Additional Insured – Engineers, Architects Or Surveyors Not Engaged By The Named Insured
- **CG 20 33** – Additional Insured – Owners, Lessees Or Contractors – Automatic Status When Required In Construction Agreement With You
- **CG 20 34** – Additional Insured – Lessor Of Leased Equipment – Automatic Status When Required In Lease Agreement With You
- **CG 20 35** – Additional Insured – Grantor Of Licenses – Automatic Status When Required By Licensor
- **CG 20 36** – Additional Insured – Grantor Of Licenses
- **CG 20 37** – Additional Insured – Owners, Lessees Or Contractors – Completed Operations
- **CG 29 35** – Additional Insured – State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations

4. Professional Services Endorsements

The following endorsements are revised to expressly address, in part, claims alleging negligence or other wrongdoing in the hiring, employment, training, supervision or monitoring of others by any insured:

- **CG 21 16** – Exclusion – Designated Professional Services
- **CG 21 52** – Exclusion – Financial Services
- **CG 21 56** – Exclusion – Funeral Services
- **CG 21 57** – Exclusion – Counseling Services
- **CG 21 58** – Exclusion – Professional Veterinarian Services
- **CG 21 59** – Exclusion – Diagnostic Testing Laboratories
- **CG 22 24** – Exclusion – Inspection, Appraisal And Survey Companies
- **CG 22 32** – Exclusion – Professional Services – Blood Banks
- **CG 22 33** – Exclusion – Testing Or Consulting Errors And Omissions
- **CG 22 34** – Exclusion – Construction Management Errors And Omissions
- **CG 22 36** – Exclusion – Products And Professional Services (Druggists)
- **CG 22 37** – Exclusion – Products & Professional Svcs (Optical & Hearing Aid Establishments)
- **CG 22 39** – Exclusion – Camps Or Campgrounds
- **CG 22 43** – Exclusion – Engineers, Architects Or Surveyors Professional Liability
- **CG 22 44** – Exclusion – Services Furnished By Health Care Providers
- **CG 22 45** – Exclusion – Specified Therapeutic Or Cosmetic Services
- **CG 22 48** – Exclusion – Insurance And Related Operations
- **CG 22 69** – Druggists
- **CG 22 71** – Colleges Or Schools (Limited Form)
- **CG 22 72** – Colleges Or Schools
- **CG 22 75** – Professional Liability Exclusion – Computer Software
- **CG 22 76** – Professional Liability Exclusion – Health Or Exercise Clubs Or Commercially Operated Health Or Exercise Facilities
- **CG 22 77** – Professional Liability Exclusion – Computer Data Processing
- **CG 22 79** – Exclusion – Contractors – Professional Liability
- **CG 22 80** – Limited Exclusion – Contractors – Professional Liability
- **CG 22 87** – Exclusion – Adult Day Care Centers
- **CG 22 88** – Professional Liability Exclusion – Electronic Data Processing Services And Computer Consulting Or Programming Services
- **CG 22 90** – Professional Liability Exclusion – Spas or Personal Enhancement Facilities

- **CG 22 91** – Exclusion – Telecommunication Equipment Or Service Providers Errors And Omissions
 - **CG 22 96** – Limited Exclusion – Personal And Advertising Injury – Lawyers
 - **CG 22 98** – Exclusion – Internet Service Providers And Internet Access Providers Errors And Omissions
 - **CG 22 99** – Professional Liability Exclusion – Web Site Designers
 - **CG 23 01** – Exclusion – Real Estate Agents Or Brokers Errors Or Omissions
 - **CG 31 15** – Construction Project Management Protective Liability Coverage
5. Exclusion – Volunteer Workers Endorsement **CG 21 66** is revised to delete reference to "in the state" from Exclusion **2.g.** (Aircraft, Auto Or Watercraft). **NOT AVAILABLE IN NEW HAMPSHIRE**
 6. Exclusion – Failure To Supply Endorsement **CG 22 50** is revised to expressly state that the exclusion also applies to the failure of any insured to adequately supply biofuel.
 7. Pesticide Or Herbicide Applicator Coverage Endorsements **CG 22 64** and **CG 28 12** and Lawn Care Services Coverage Endorsement **CG 22 93** are revised to reflect a change in titles to Herbicide Applicator – *Limited Pollution* Coverage endorsements and Lawn Care Services – *Limited Pollution* Coverage.
 8. Real Estate Property Managed Endorsement **CG 22 70** is revised to reinforce that the insurance provided is excess over any other insurance available, whether such insurance is primary or excess.
 9. Colleges Or Schools Endorsements **CG 22 71** and **CG 22 72** are revised to expressly address, in part, claims alleging negligence or other wrongdoing in the hiring, employment, training, supervision or monitoring of others by any insured.
 10. Waiver Of Governmental Immunity Endorsement **CG 24 14** is revised to reference that the endorsement also applies to the Owners And Contractors Protective Liability Coverage Part and the Railroad Protective Liability Coverage Part.
 11. Amendment Of Insured Contract Definition Endorsement **CG 24 26** is revised to reflect that the defined term insured contract addresses certain liability assumed by the named insured with respect to the tort liability of another party to the extent the assumption of the tort liability is permitted by law.
 12. Designated Locations(s) Aggregate Limit Endorsement **CG 25 14** is introduced to make a separate Designated Location Aggregate Limit available for each location of the insured listed in the Schedule of the endorsement.
 13. Supplemental Extended Reporting Period Endorsement **CG 27 10** and Supplemental Extended Reporting Period Endorsement For Specific Accidents, Products, Work Or Locations Endorsement **CG 27 11** are revised to amend Condition **4.** (Other Insurance) so that the insurance provided is excess over any for which the named insured has been added as an additional insured, whether by endorsement or any other means.
 14. Principals Protective Liability Coverage Endorsement **CG 28 07** is revised to delete reference to "in the state" from Exclusion **2.c.(1)(e)(i)**. **NOT AVAILABLE IN NEW HAMPSHIRE**
 15. **Liquor Liability Exclusion Endorsements**

The following endorsements are revised to reinforce that the exclusion applies even if claims against an insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others, or providing or failing to provide transportation with respect to any person that may be under the influence of alcohol:

 - **CG 21 50** – Amendment Of Liquor Liability Exclusion (for use with Commercial General Liability Coverage Part)
 - **CG 21 51** – Amendment Of Liquor Liability Exclusion – Exception For Scheduled Premises Or Activities (for use with Commercial General Liability Coverage Part).

16. VERMONT ONLY

- **CG 21 32 05 09** – Communicable Disease Exclusion - when this endorsement is attached to a policy, coverage is excluded for liability arising out of the actual or alleged transmission of a communicable disease
- **CG 21 59 05 09** – Limited Exclusion – Designated Operations Covered by a Consolidated (Wrap-Up) Insurance Program –when this endorsement is attached to your policy it excludes coverage for that portion of your project or operation that is covered under a wrap-up insurance program.

17. GENERAL LIABILITY COMPLETE ENDORSEMENT MU 7647 /MU 8958

- **Voluntary Property Damage** – deductible increased from \$250 to \$500.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY
AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

25 CC ST74B LLC 25 COLUMBUS CIRCLE UNIT 74B/75B NY NY 10019
CONSTRUCTOMICS LLC 45 WEST 21ST 5TH FLOOR NY NY 10010
JACO BUILDERS LTD, THEIR OFFICERS, DIRECTORS, PARTNERS, REPRESENTATIVE
& EMPLOYEES;
HINABEN & SANJAY JOBANPUTRA; AMITA & DIPAK PATEL LLC

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV - COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

MERCHANTS MUTUAL INSURANCE COMPANY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK - GENERAL LIABILITY COMPLETE ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

1. NAMED INSURED

SECTION II - WHO IS AN INSURED, ITEM 3. is replaced in its entirety with the following:

3. Any organization over which you maintain ownership or majority interest will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - b. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

2. DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

- a. Condition **2.a.** of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** will not apply until after the "occurrence" is actually known to:
 - (1) You, if you are an individual;
 - (2) A partner, if you are a partnership; or
 - (3) An "executive officer", risk manager or insurance manager, if you are a corporation.
- b. Condition **2.b.** of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** will not apply until after such claim or "suit" is actually known to:
 - (1) You, if you are an individual;
 - (2) A partner, if you are a partnership; or
 - (3) An "executive officer" or insurance manager, if you are a corporation.

3. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

It is agreed that based on our reliance on your representations as to existing hazards, if unintentionally you should fail to disclose all similar hazards at the inception date of your policy, we shall not deny coverage under this Coverage Part because of such failure.

4. VOLUNTARY PROPERTY DAMAGE

Under **SECTION I, COVERAGE D. VOLUNTARY PROPERTY DAMAGE** is added:

COVERAGE D. VOLUNTARY PROPERTY DAMAGE

1. Insuring Agreement

- a. We will pay for unintentional "property damage" to property of others:
 - i. Caused by you or while the property is in your possession; and
 - ii. Arising out of the operations described in the Declarations and covered by this policy.
- b. We will pay the cost to repair or replace the damage to property of others:
 - i. Which is in excess of \$500 for each "occurrence". This deductible applies separately to each claim.
 - ii. We will pay any part or all of the deductible amount to effect settlement of any claim or 'suit' and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.
 - iii. The most we will pay under this coverage is \$10,000 per "occurrence" subject to \$25,000 annual aggregate.
- c. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance.

2. Exclusions:

- a. "Property damage" covered under **COVERAGE A**.
- b. "Property damage" due to disappearance, abstraction, theft or loss of use.
- c. The **COVERAGE A**. Exclusions apply except for the following:
 - i. 2.j.3. - Property loaned to you.
 - ii. 2.j.4. - Personal property in your care, custody or control.
 - iii. 2.j.5. - That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations.

3. Conditions

If you replace the damaged property, or furnish the labor and materials necessary for repair of the damaged property, we will pay your actual cost exclusive of any prospective profit or overhead

charges. Repair or replacement of any damaged property is not an admission of liability by either you or us. At our option, any property replaced or paid for by us becomes our property.

5. PROPERTY DAMAGE LIABILITY - ELEVATOR AND SIDETRACK AGREEMENTS

Under **SECTION I, COVERAGE A., ITEM 2., EXCLUSIONS**, the following applies:

1. Paragraphs (3), (4) and (6) of **EXCLUSION j.** do not apply to "property damage" to property while on or being moved onto or off an elevator.
2. **EXCLUSION k.** does not apply to:
 - a. "Your product" while on, being moved onto or off an elevator; or
 - b. Liability assumed under a sidetrack agreement.

This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess, contingent or on any other basis.

6. NON-OWNED WATERCRAFT

Paragraph **g.(2)** of **SECTION I, COVERAGE A., ITEM 2., EXCLUSIONS** is changed to read:

(2) A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not being used to carry persons or property for a charge.

This provision does not apply if the insured has any other insurance for "bodily injury" or "property damage" liability that would also apply to a loss covered under this provision, whether the other insurance is primary, excess, contingent or on any other basis. In that case, this provision does not provide any insurance.

7. FIRE, LIGHTNING OR EXPLOSION DAMAGE

The last paragraph of **SECTION I, COVERAGE A., ITEM 2., EXCLUSIONS** is replaced by the following:

EXCLUSIONS c. through **n.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE**.

Paragraph **6.** of **SECTION III - LIMITS OF INSURANCE** is replaced by the following:

6. Subject to Paragraph **5.** of **SECTION III - LIMITS OF INSURANCE**, the most we will pay for damages because of "property damage" to premises rented to you or temporarily occupied by you with permission of the owner resulting from fire, lightning or explosion, or any combination of the three, is the greater of:
 - a. \$500,000; or

b. The amount shown next to Damage To Premises Rented To You Limit in the Declarations.

This provision does not apply if Damage To Premises Rented To You coverage is not provided by this policy.

8. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT

SECTION II - WHO IS AN INSURED is amended to include as an additional insured:

4. a. Any person or organization when you and such person or organization have agreed in writing in a contract, agreement or permit that was executed prior to the "bodily injury", "property damage" or "personal and advertising injury", that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions;
2. The acts or omissions of those acting on your behalf in performance of your ongoing operations for the additional insured. A person's or organization's status as an additional insured ends when your operations for that additional insured is completed; or
3. Your acts or omissions or the acts or omissions of those acting on your behalf in connection with premises owned by or rented to you.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. A contract, agreement or permit that was executed after the "bodily injury", "property damage" or "personal and advertising injury".
2. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional services.
3. "Bodily injury", "property damage" or "personal and advertising injury" occurring after:
 - (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - (b) That portion of "your work", out of which the injury or damage arises, has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

c. This insurance is primary if that is required by the contract, agreement or permit.

d. This insurance is non-contributory if that is required by the contract, agreement or permit.

9. INCIDENTAL MEDICAL MALPRACTICE LIABILITY

- a. The definition of "bodily injury" in **SECTION V - DEFINITIONS** is amended to include injury arising out of the rendering, or failure to render, medical or paramedical services to persons by any nurse, emergency medical technician or paramedic who is employed by you to provide such service.
- b. Paragraph **2.a.(1)d.** of **SECTION II - WHO IS AN INSURED** does not apply to nurses, emergency medical technicians or paramedics referred to in Paragraph a. above.
- c. This provision, **9. INCIDENTAL MEDICAL MALPRACTICE LIABILITY**, does not apply if you are engaged in the business or occupation of providing any services referred to in Paragraph a. above.

10. INSURED CONTRACT

The definition of "Insured Contract" in **SECTION V - DEFINITIONS** is replaced by the following:

9. "Insured Contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "Insured Contract";
- b. A sidetrack agreement;
- c. An easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work performed for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (i) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- (ii) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (1) Preparing, approving of, failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (iii) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering, or failure to render, professional services, including those listed in (ii) above and supervisory, inspection, architectural or engineering activities.

11. MEDICAL PAYMENTS

If **COVERAGE C. - MEDICAL PAYMENTS COVERAGE** is not otherwise excluded from this Coverage Part:

- 1. The Medical Expense Limit is changed, subject to all the terms of **SECTION III - LIMITS OF INSURANCE**, to the greater of:
 - a. \$15,000; or
 - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.
- 2. The requirement, in the Insuring Agreement of **COVERAGE C.**, that expenses must be incurred and reported to us within "one year" of the accident date is changed to "three years".

12. ADDITIONAL INSURED - VENDORS

If this policy provides Products Liability Coverage, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person(s) or organization(s) (referred to below as vendor) you are required by a written contract or written agreement to name as an additional insured, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- 1. The insurance afforded the vendor does not apply to:
 - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - b. Any express warranty unauthorized by you;
 - c. Any physical or chemical change in the product made intentionally by the vendor;
 - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed

to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the product(s);

- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- g. Product(s) which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Subparagraphs d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the product(s).

- 2. This insurance does not apply to any insured vendor from whom you have acquired such product(s), or any ingredient, part or container, entering into, accompanying or containing such product(s).

13. NON-OWNED AIRCRAFT

a. **EXCLUSION g.** is changed so that **SECTION I - COVERAGE A.** applies to an aircraft that is:

- (1) Hired, chartered or loaned with a paid crew; but
- (2) Not owned by any insured.

b. This provision does not apply if the insured has any other insurance for "bodily injury" or "property damage" liability that would also be covered under this provision, whether the other insurance is primary, excess, contingent or on any other basis. In that case, this provision does not provide any insurance.

14. SUPPLEMENTARY PAYMENTS

Paragraphs 1.b. and 1.d. of **SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGE A. AND B.** are replaced by the following:

- 1.b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- 1.d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$350 a day because of time off from work.

15. LIBERALIZATION

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

Policy/Quote No.: CMP9143810 Agent : 03612 Date : 02/26/2014 Page No.: 1
Account Number : A000135832 Agent Name: LIBARDI SERVICE AGCY INC. Trans Type : RENEWAL
Named Insured : ELEGANTE GRANITE & MARBLE INC Endorsement #: 000
LOB : COMMERCIAL PACKAGE Audit Freq : A

Effective Date : 03/17/2014 Expiration Date: 03/17/2015
Predominant State: NY Policy Term : 12 MONTHS
Package Program: INDUSTRIAL/PROCESSING

***** Policy Premium Totals *****
COVERAGES ANNUAL PREMIUM
PROPERTY 4,181.15
GENERAL LIABILITY 8,509.00

GRAND TOTAL POLICY PREMIUM 12,690.15

Page No.: 2

Policy/Quote No.: CMP9143810
Named Insured : ELEGANTE GRANITE & MARBLE INC

----- General Liability - Premium Summary -----
***** POLICY PREMIUM TOTAL *****
COVERAGES PREMIUM
PREMISES OPERATION 7,306.00
PRODUCTS/COMPLETED OPERATIONS 678.00
ADDITIONAL INTEREST 150.00
GL COMPLETE COVERAGE 250.00
DESIGNATED CONSTRUCTION PROJECT 125.00
GRAND TOTAL GENERAL LIABILITY 8,509.00

Page No.: 3

Policy/Quote No.: CMP9143810
Named Insured : ELEGANTE GRANITE & MARBLE INC

***** General Liability - Policy Level Information *****
General Aggregate : 2,000,000 Product/Compl Aggregate : 2,000,000
Personal/Adv Injury : 1,000,000 Each Occurrence : 1,000,000
Fire Damage : 100,000 Medical Expense : 5,000
Liquor Liability - Common Cause Limit : Liquor Liability - Aggregate Limit :
Deductible Subline : Deductible Apply :
Deductible Amount : Deductible Type :
GL Enhancement Type : GL Enhancement Subline :
GL Enhancement Percentage : Policy Type :
Package Program : Package Description :
Premises/Operations Experience Rating Premium: 3,100.00 Products Experience Rating Premium: 354.00
***** General Liability - Policy Level Rating Formulas *****

COVERAGES FINAL PREMIUM
ADDITIONAL INTEREST (SYSTEM)
(BASE PREM * #ADL INS)
50 3 = 150.00
GENERAL LIABILITY COMPLETE COVERAGE
PREMIUM * CHARGE
8,134.00 .010 = 250.00
DESIGNATED CONSTRUCTION PROJECT (WHOLE DOLLAR) = 125.00

***** General Liability - Location Information *****
LOC#: 001 BLD#: 001 Territory State: NY Rating Territory: 007
67 SYLVESTER STREET WESTBURY NY 115904939

***** General Liability - Class Information *****
Class Code : 059482 Class Description : STONE CUTTING OR POLISHING
Package Program : IP Package Description :
Exposure : 1,280,000 Exposure Type : GROSS SALES
Products Excluded : NO Deductible Applies : NO
Premises/Operations ILTA : 3 Products ILTA : C
Premises/Operations (A) Rates : NO Products (A) Rates : YES
Premises/Operations Base Rate Override : Products Base Rate Override : .164
Stop Gap - Aggregate Limit : Stop Gap - Other Limit :
Premises/Operations Experience Rating Premium: 1,546.00 Products Experience Rating Premium:
----- General Liability - Rate Modification Development -----

PKG MOD	PKG DEV	SCHED (MOD + MOD)	EXPER MOD	CONST	CO (EXPNS + EXPNS)	AGENT EXPNS	CONST	BLD CREDIT	SIZE OF PREMIUM	DEREG	OTHER MOD	TRANS FCT	RATE MOD
.620	1.000	1.000	1.114	1.000	1.000	1.0000	1.0000	1.000	1.000	1.000	1.000	1.000	.691

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION

FINAL PREMIUM

PREMISES/OPERATIONS

LOSS COST * LCM = BASE RATE
 1.130 1.725 1.949
 BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
 1.949 2.380 .691 3.205
 FINAL RATE * EXPOSURE
 3.205 1,280.000

= 4,102.00
 Page No.: 4

Policy/Quote No.: CMP9143810
 Named Insured : ELEGANTE GRANITE & MARBLE INC

PRODUCTS/COMPLETED OPERATIONS

LOSS COST * LCM = BASE RATE
 .164 1.000 .164
 BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
 .164 1.910 .691 .216
 FINAL RATE * EXPOSURE
 .216 1,280.000

= 276.00

***** General Liability - Class Information *****

Class Code	: 091583	Class Description	: CONTRACTORS - SUBCONTR WK-BLDG
Package Program	: IP	Package Description	:
Exposure	:	Exposure Type	: TOTAL COST
Products Excluded	: NO	Deductible Applies	: NO
Premises/Operations ILTA	: 2	Products ILTA	: C
Premises/Operations (A) Rates	: YES	Products (A) Rates	: YES
Premises/Operations Base Rate Override	: 1.660	Products Base Rate Override	: 1.780
Stop Gap - Aggregate Limit	:	Stop Gap - Other Limit	:
Premises/Operations Experience Rating Premium:	: 1.00	Products Experience Rating Premium:	:

***** General Liability - Rate Modification Development *****

PKG MOD	PKG DEV	SCHED (MOD + MOD)	EXPER MOD	CONST	CO (EXPNS + EXPNS)	AGENT EXPNS	CONST	BLD CREDIT	SIZE OF PREMIUM	DEREG	OTHER MOD	TRANS FCT	RATE MOD
.620	1.000	1.000	1.114	1.000	1.000	1.0000	1.0000	1.000	1.000	1.000	1.000	1.000	.691

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION

FINAL PREMIUM

PREMISES/OPERATIONS

LOSS COST * LCM = BASE RATE
 1.660 1.000 1.660
 BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
 1.660 1.850 .691 2.122
 FINAL RATE * EXPOSURE
 2.122

= .00

PRODUCTS/COMPLETED OPERATIONS

LOSS COST * LCM = BASE RATE
 1.780 1.000 1.780
 BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
 1.780 1.910 .691 2.349
 FINAL RATE * EXPOSURE
 2.349

= .00

***** General Liability - Class Information *****

Class Code	: 099746	Class Description	: TILE-STONE/MARBLE MOSAIC/TERRA
Package Program	: IP	Package Description	:
Exposure	: 45,700	Exposure Type	: PAYROLL
Products Excluded	: NO	Deductible Applies	: NO
Premises/Operations ILTA	: 2	Products ILTA	: B
Premises/Operations (A) Rates	: NO	Products (A) Rates	: NO
Premises/Operations Base Rate Override	:	Products Base Rate Override	:
Stop Gap - Aggregate Limit	:	Stop Gap - Other Limit	:
Premises/Operations Experience Rating Premium:	: 422.00	Products Experience Rating Premium:	:

Policy/Quote No.: CMP9143810
Named Insured : ELEGANTE GRANITE & MARBLE INC

PKG MOD	PKG DEV	SCHED (MOD + MOD -)	EXPER (MOD + MOD -)	CONST	CO (EXPNS + EXPNS -)	AGENT	CONST	BLD	SIZE OF PREMIUM	DEREG	OTHER MOD	TRANS FCT	RATE MOD
.620	1.000	1.000	1.114	1.000	1.000	1.0000	1.0000	1.000	1.000	1.000	1.000	1.000	.691

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
8.640 1.725 14.904
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
14.904 1.850 .691 19.053
FINAL RATE * EXPOSURE
19.053 45.700 = 871.00

PRODUCTS/COMPLETED OPERATIONS
LOSS COST * LCM = BASE RATE
4.550 1.725 7.849
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
7.849 1.620 .691 8.786
FINAL RATE * EXPOSURE
8.786 45.700 = 402.00

***** General Liability - Location Information *****
LOC#: 002 BLD#: 001 Territory State: NY Rating Territory: 007
58 SYLVESTER ST WESTBURY, NY 115904911

***** General Liability - Class Information *****
Class Code : 061226 Class Description : BUILDINGS OR PREMISES - OFFICE
Package Program : IP Package Description :
Exposure : 2,133 Exposure Type : AREA
Products Excluded : NO Deductible Applies : NO
Premises/Operations ILTA : 2 Products ILTA :
Premises/Operations (A) Rates : NO Products (A) Rates : NO
Premises/Operations Base Rate Override : Products Base Rate Override :
Stop Gap - Aggregate Limit : Stop Gap - Other Limit :
Premises/Operations Experience Rating Premium: 1,131.00 Products Experience Rating Premium:

PKG MOD	PKG DEV	SCHED (MOD + MOD -)	EXPER (MOD + MOD -)	CONST	CO (EXPNS + EXPNS -)	AGENT	CONST	BLD	SIZE OF PREMIUM	DEREG	OTHER MOD	TRANS FCT	RATE MOD
.620	1.000	1.000	1.114	1.000	1.000	1.0000	1.0000	1.000	1.000	1.000	1.000	1.000	.691

***** General Liability - Rate Modification Development *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

***** State (NY) = 8,509.00 *****

***** General Liability Total Grand Cash Premium = 8,509.00 *****

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

***** State (NY) = 8,509.00 *****

***** General Liability Total Grand Cash Premium = 8,509.00 *****

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

***** State (NY) = 8,509.00 *****

***** General Liability Total Grand Cash Premium = 8,509.00 *****

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

***** State (NY) = 8,509.00 *****

***** General Liability Total Grand Cash Premium = 8,509.00 *****

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

***** State (NY) = 8,509.00 *****

***** General Liability Total Grand Cash Premium = 8,509.00 *****

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

***** State (NY) = 8,509.00 *****

***** General Liability Total Grand Cash Premium = 8,509.00 *****

***** General Liability - Class Rating Formula *****

COVERAGE DESCRIPTION
PREMISES/OPERATIONS
LOSS COST * LCM = BASE RATE
522.000 1.639 855.558
BASE RATE * (INCR LIMIT - DEDUCT) * RMF = FINAL RATE
855.558 1.850 .691 1,093.703
FINAL RATE * EXPOSURE
1,093.703 2.133 = 2,333.00

-----		Property Policy Level	Information	-----
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Property Policy Level Rating Formulas	
1	100%
2	90%
3	80%
4	70%
5	60%
6	50%
7	40%
8	30%
9	20%
10	10%
11	0%

PREMIUM	=	
26.00		26.00

NON-QUALIFYING Coverage Description	Final Premium
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PREMIUM	100.00	=	100.00
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Loc # : 001 Bldg # : 001 Terr State: NY

Page 8

Named Insured : ELEGANTE GRANITE & MARBLE INC

Limit	: 1,220,000	Col	: SPECIAL	
CSP Class	: 0567	Desc	: TILE/STONE/MARBLE ETC	WORK - 1
Policy Type	: IP	Pkg Desc	: INDUSTRIAL/PROCESSING	
Rated	: CLASS	BGI Ded	: 1,000	SI Eq Ext :
Valuation	: RCV	BGII Ded	: 1,000	Eq Construct:
Coinsuran	: 80	Wind Ded	:	Eq Deduct :
Agred Val	:	Wind Dvce:	:	Eq Ord Law :
Construct	: NON-COMB	Prt Clas	: 03	Mas/Venr :
Coml BCEG	: 099	GRPII Ter:	: 002	Eq Terr :
Indiv Grd	:	GRPII Occ:	: A	Eq Tier :
Yr of Cons:	: 1970	GRPII Sym:	: OAB	BPP Rate Grd:
Sprkl Prt	: NON-SPKL	Spc Occ	:	# Story Opt :
Infl Grd	:	H/M/L	:	Bldg Cnd Opt:
Vacant	:	Theft Ded:	: 1,000	Spkl Grd :
Vac Permit:	:	Other Ded:	: 1,000	Pier Const :
Exclusions:	:			
Lmt Roof:	:	Exc Cosm:	:	

Ord or Law :	Bus Inc Typ:
Demo Limit :	Loss Pmt% :
Inc Cost Lmt :	Ord Payroll :
Off Prem/Utl:	Indemnity :
Reporting :	Ext Indemn :
Reptg Type :	Elc Media :
Peak Lim 1 :	Civil Auth :
From :	Time Period:
To :	Tul Type :
Peak Lim 2 :	Ext Rec Per:
From :	CivAutIncRd:
To :	
Legal Liab :	

[illegible]

BUILDING		Property 200 # 007, Drag # 007 Rating Formulas	
Coverage Description			Final Premium

BASIC_GRP 1										
LOSS COST	*	PROT FAC	*	BASE LCM	=	BASE RATE				
.180		.960		1.847		.319				
BASE RATE	*	TERR MULT	*	LOI FACT	*	DED FACT	*	RTE MOD	=	MOD RATE * (LIMIT/100) =
.319		1.000		.760		.920		.718		.160 12200
SUB TOTAL										
1952.00										
									=	1,952.00

BASIC GRP11									
LOSS COST	*	BASE LCM	=	BASE RATE					
.062		1.847		.115					
BASE RATE	*	LOI FACT	*	DED FACT	*	RTE MOD	=	MOD RATE	* (LIMIT/100) = SUB TOTAL

SPECIAL	.115	.666	.920	.718	.051	12200	622.20	=	622.00
LOSS COST * BASE LCM = BASE RATE .037 1.847 .068 BASE RATE * LOI FACT * DED FACT * RTE MOD = MOD RATE * (LIMIT/100) = SUB TOTAL .068 .692 .920 .718 .031 12200 378.20 = 378.00									

Page 9

Policy/Quote No: CMP9143810
 Named Insured : ELEGANTE GRANITE & MARBLE INC

BUSINESS PERSONAL PROPERTY

Limit : 105,000	Col : SPECIAL			
CSP Class : 0567	Desc : TILE/STONE/MARBLE ETC WORK - I			
Policy Type: IP	Pkg Desc : INDUSTRIAL/PROCESSING			
Rated : CLASS	BGI Ded : 1,000	SI Eq Ext :	Ord or Law :	Bus Inc Typ:
Valuation : RCV	BGII Ded : 1,000	Eq Construct:	Demo Limit :	Loss Pmt% :
Coinsuran : 80	Wind Ded :	Eq Deduct :	Inc Cost Lmt:	Ord Payroll:
Agd Val :	Wind Dvce:	Eq Ord Law :	Off Prem/Utl:	Indemnity :
Construct : NON-COMB	Prt Clas : 03	Mas/Venr :	Reporting :	Ext Indemn:
Coml BCEG : 099	GRPII Ter: 002	Eq Terr :	Reptg Type :	Elc Media :
Indiv Grd :	GRPII Occ: A	Eq Tier :	Peak Lim 1 :	Civil Auth :
Yr of Cons: 1970	GRPII Sym: OAB	BPP Rate Grd:	From :	Time Period:
Sprkl Prt : NON-SPKL	Spc Occ : ME	# Story Opt :	To :	Tui Type :
Infl Grd :	H/M/L : H	Bldg Cnd Opt:	Peak Lim 2 :	Ext Rec Per:
Vacant :	Theft Ded: 1,000	Spkl Grd :	From :	CivAutIncRd:
Vac Permit:	Other Ded: 1,000	Pier Const :	To :	
Exclusions:			Legal Liab :	
Lmt Roof:	Excl Cosm:			

Property Loc # 001/Bldg # 001 Rate Modification Development (BLD/BPP)											
Pkg Mod	* Pkg Dev	* Sched Mod	* Mlpdc Mod	* Comp (Exps	* Agent Exps	- Const	* Other Mod	* Dereg Fct	* Sz Prm Credit	* Franch Credit	= Rate Mod
.740	1.000	.970	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	.718

BUSINESS PERSONAL PROPERTY

Coverage Description	Final Premium
BPP_BG I	

LOSS COST * PROT FAC * BASE LCM = BASE RATE
.286 .960 1.847 .507
BASE RATE * TERR MULT * LOI FACT * DED FACT * RTE MOD = MOD RATE * (LIMIT/100) =
.507 1.000 .892 .920 .718 .299 1050
SUB TOTAL
313.95

= 314.00

BPP_BG II

LOSS COST * BASE LCM = BASE RATE
.070 1.847 .129
BASE RATE * LOI FACT * DED FACT * RTE MOD = MOD RATE * (LIMIT/100) = SUB TOTAL
.129 .834 .920 .718 .071 1050 74.55

= 75.00

BPP_SPCL

LOSS COST * BASE LCM * TERR MULT = BASE RATE
.230 1.847 1.112 .472
(BASE RATE * LOI FACT * DED FACT * RTE MOD = MOD RATE * (LIMIT/100) = SUB TOTAL
.472 .778 .920 .718 .243 1050 255.15

= 255.00

Page 10

Policy/Quote No: CMP9143810
 Named Insured : ELEGANTE GRANITE & MARBLE INC

BUSINESS INCOME WITH EXTRA EXPENSE

Limit : 42,000	Col : SPECIAL			
CSP Class : 0567	Desc : TILE/STONE/MARBLE ETC WORK - I			
Policy Type: IP	Pkg Desc : INDUSTRIAL/PROCESSING			
Rated : CLASS	BGI Ded :	SI Eq Ext :	Ord or Law :	Bus Inc Typ: MFG
Valuation :	BGII Ded :	Eq Construct:	Demo Limit :	Loss Pmt% :
Coinsuran : 80	Wind Ded :	Eq Deduct :	Inc Cost Lmt:	Ord Payroll:

						Property Loc # 001/Bldg # 001 Rate Modification Development (All Other)							
Pkg		Pkg	Sched	Comp	Agnt	Const	Other	Dereg	Sz Prm	Franch	Rate		
Mod	*	Dev	* Mod	(Expns	+ Expns	-) *	Mod	Fct	* Credit	Credit	= Mod		
.740		1.000	.970	1.000	1.000	1.000	1.000	1.000	1.000	1.000	.718		
						Property Loc # 001/Bldg # 001 Rating Formulas							

Coverage Description	Final Premium
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LOSS COST	*	PROT FAC	*	BASE LCM	*	ADJ FACT	=	BASE RATE	
.180		.960		1.847		.750		.239	
BASE RATE	*	TERR MULT	*	BIN RATE	*	RTE MOD	=	MOD RATE	* (LIMIT/100) = SUB TOTAL
.239		1.000		.790		.718		.136	420 57.12 = 57.00

[illegible]

LOSS COST	*	BASE LCM	=	BASE RATE				
.062		1.847		.115				
BASE RATE	*	RTE MOD	=	MOD RATE	* (LIMIT/100)	=	SUB TOTAL	
.115		718		.083	420		34.86	= 35.00

Non-Qualifying Coverage Description	Final Premium
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PREMIUM 25.00 = 25.00
Page 11

Named Insured : ELEGANTE GRANITE & MARBLE INC

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----- Property Location Information -----
Loc # : 002   Bldg # : 001
Terr State: NY
Terr Rate : 300
Tax Dist  : 0292
```

Limit	Col		
CSP Class : 0567	Desc	TILE/STONE/MARBLE ETC WORK	- I
Policy Type: IP	Pkg Desc	INDUSTRIAL/PROCESSING	
Rated : SPECIFIC	BGI Ded : 1,000	SI Eq Ext	:
Valuation : RCV	BGII Ded : 1,000	Eq Construct	:
Coinsuran : 80	Wind Ded :	Eq Deduct	:
Agrd Val :	Wind Dvce :	Eq Ord Law	:
Construct : MAS N.C.	Prt Clas : 03	Mas/Venr	:
Coml BCEG : 099	GRPII Ter : 002	Eq Terr	:
Indiv Grd :	GRPII Occ : A	Eq Tier	:
Yr of Cons: 1968	GRPII Sym : 0AB	BPP Rate Grd	:
Sprkl Prt : NON-SPKL	Spc Occ : CO	# Story Opt	:
Infl Grd :	H/M/L :	Bldg Cnd Opt	:
Vacant :	Theft Ded : 1,000	Spkl Grd	:
Vac Permit:	Other Ded : 1,000	Pier Const	:

Ord or Law :	Bus Inc Typ:
Demo Limit :	Loss Pmt% :
Inc Cost Lmt:	Ord Payroll:
Off Prem/Utl:	Indemnity :
Reporting :	Ext Indemn :
Reptg Type :	Elc Media :
Peak Lim 1 :	Civil Auth :
From :	Time Period:
To :	Tui Type :
Peak Lim 2 :	Ext Rec Per:
From :	CivAutIncRd:
To :	

Exclusions:
Lmt Roof:

Excl Cosm:

Legal Liab :

Pkg	Pkg	Sched	Mipdc	Comp	Agent	Rate	Modification	Development	(BLD/BPP)										
Mod	Dev	Mod	Mod	(Expns	Expns	Const)	Other	Dereg	Sz Prm	Franch	Rate							
.740	1.000	.970	1.000	1.000	1.000	1.000		1.000	1.000	1.000	1.000	1.000							
Property Loc # 002/Bldg # 001 Rating Formulas																			

BUSINESS PERSONAL PROPERTY

Coverage Description

Final Premium

BPP_BG_1

LOSS COST	*	BASE LCM	=	BASE RATE															
1.395		1.847		2.577															
BASE RATE	*	LOI FACT	*	DED FACT	*	RTE MOD	=	MOD RATE	*	(LIMIT/100)	=	SUB TOTAL							
2.577		1.327		.920		.718		2.259		100		225.90							226.00

BPP_BG_11

LOSS COST	*	BASE LCM	=	BASE RATE															
.070		1.847		.129															
BASE RATE	*	LOI FACT	*	DED FACT	*	RTE MOD	=	MOD RATE	*	(LIMIT/100)	=	SUB TOTAL							
.129		1.487		.920		.718		.127		100		12.70							13.00

Page 12

Policy/Quote No: CMP9143810

Named Insured : ELEGANTE GRANITE & MARBLE INC

BPP_SPCL

LOSS COST	*	BASE LCM	*	TERR MULT	=	BASE RATE													
.225		1.847		1.112		.462													
(BASE RATE	*	LOI FACT	*	DED FACT	*	RTE MOD	=	MOD RATE	*	(LIMIT/100)	=	SUB TOTAL							
.462		1.728		.920		.718		.527		100		52.70							53.00

***** State (NY) - Fire Fee (1.25 %) = 31.15 *****

***** (NY) State Total = 4,181.15 *****

***** Property Total = 4,181.15 *****

